1091.

SUPREME COURT OF THE UNITED STATES.

No. 159.

THE PHILADELPHIA AND HAVRE DE GRACE STEAM TOWBOAT COMPANY, OWNERS OF THE TOWBOAT SUPERIOR, HER TACKLE, APPAREL, AND FURNITURE, APPELLANTS,

vs.

ANTHONY VANDERSLICE, FOR HIMSELF AND OTHERS, LIBELLANTS.

APPEAL FROM THE CIRCUIT COURT, UNITED STATES, FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

INDEX.

	Original.	Print.
Transcript of record from district court	2	1
Libel and complaint	2	1
Answer of respondents	6	4
Testimony	14	9
Opinion of district court	222	199
Commissioner's report	231	206
Certificate of clerk district court	261	233
Opinion and decree of circuit court	263	234
Appeal prayed and allowed	264	235
Clerk's certificate	265	235

[Gibbons, Print.]

Pleas before the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit.

It is thus contained:

Be it remembered, that, on the eighth day of November, in the year of our Lord one thousand eight hundred and fifty, upon an appeal, by the respondents, from the decree of the district court of the United States, for the eastern district of Pennsylvania, in a certain plea, civil and maritime, therein lately depending, wherein Anthony Vanderslice and others were the libellants against the steamer Superior, the Philadelphia and Havre de Grace Steam Towboat Company, respondents, the record of said court being exhibited, is in the words and of the tenor following, to wit:

Pleas before the honorable the judge of the district court of the United States, in and for the eastern district of Pennsylvania, in admiralty.

It is thus contained:

Be it remembered, that, on the 20th day of May, A. D. 1846, C. Wallace Brooke, esq., one of the proctors of said court, comes into said court, and exhibits the libel and complaint of Anthony Vanderslice, master or owner of the canal boat or barge "Judge Royer," for himself and others, against the steam towboat "Superior," in a cause of collision, and the same being read and filed in the words following, to wit:

To the honorable Archibald Randall, judge of the district court of the United States of America, for the eastern district of Pennsylvania.

The libel and complaint of Anthony Vanderslice, master and owner of the canal boat or barge "Judge Royer," her tackle, apparel, and furniture, in his own name and behalf, and also in the name and behalf of the following named persons, consignees and owners of the cargo of the said boat or barge, viz: Ziba Bennett, George H. Fowler, Fincher & Thomas, L. B. Rupert, George Masters, John Sharpless, Abm. Miller, Rickets & Stewart, W. L. Waller, Wm. Bird, J. E. Sands, E. Hughes, J. K. Sharpless, R. McCoy, C. B. Bowman, Wm. Robinson, Hefley & Mendenhall, George Weaver, Wolf & Roush, John Pennepacker, Reim & Kaull, George Zinn, Henry Buchler, G. W. Buffington, D. W. Gross, Samuel Wertz, and Jacob Hibler, against the steam towboat "Superior," her tackle, apparel, and furniture, (whereof ———— Metts now is, or lately was, master,) and against the "Philadelphia and Havre de Grace Steam Towboat Company," owner of the said steamboat, and also against all persons lawfully intervening for their interest in said boat, in a cause of collision, civil and maritime; and thereupon the said Anthony Vanderslice alleges and articulately propounds, as follows:

First. That on the fifteenth day of May, in the year one thousand eight hundred and forty-six, the said canal boat or barge "Judge Royer," whereof your libellant was owner and master, was at the port of Philadelphia, destined from thence to Wilkesbarre, in the State of Pennsylvania, by way of the Delaware river, the Delaware and Chesapeake canal, and the Susquehanna Tide Water canal, with a lading of merchandise, of the value of eighteen thousand dollars, or thereabouts, consigned to and owned by the persons above named; and was at that time a tight, staunch, and well built vessel, of the burthen of ninety-six tons, or thereabouts, and was completely and sufficiently found and provided with tackle, apparel, and furniture, and had on board, and in her service, a full and sufficient complement or number of hands to take care of and navigate said boat on the voyage above mentioned.

Second. That on the said fifteenth day of May, in the year aforesaid, the said boat "Judge Royer," provided and manned as aforesaid, left the said port of Philadelphia in tow of the said steamboat "Superior," being lashed to the starboard side of the said steamboat, and in that manner proceeded down the said river Delaware for the distance of about half a mile below the navy yard at said port; that at the place last mentioned the master of the said steamboat directed the hands on board of said steamboat to cast off the boat of your libellant from the side of the said steam towboat, which they accordingly did, when she dropped astern of said steamboat, being made fast to her by means of a halser or tow line; that the boat of your libellant immediately began to roll from side to side with such violence that a portion of her cargo, to wit, three barrels of mackerel, were thereby thrown overboard and lost; that after they had proceeded down said river in this manner about one mile farther, the course of the steamboat was directed towards the Pennsylvania shore, for the purpose of running the boat of the libellant into the dock at the Point-house, and the captain of the said steamboat ordered the libellant to steer his boat so as to run her bow into said dock, for which purpose the libellant thereupon put the helm of his boat aport, when an additional head of steam was let on to said steamboat, and the boat of your libellant was dragged with great force and violence against the pier, when the tow line by which your libellant's boat was attached to the steamboat either parted or was cast off by the hands on board the steamboat. The said steamboat thereupon continued down the said river for a distance of five hundred yards, or thereabouts, when she turned about and proceeded up the river towards Philadelphia; that immediately after the concussion against the pier, the boat of your libellant drifted out into the stream, and at the distance of about one hundred yards from the Pennsylvania shore your libellant let go the anchor of his boat; that while his boat was thus lying at anchor near the said Point-house in the said river Delaware, within the ebb and flow of the tides, and within the jurisdiction of this honorable court, the said steamboat, which in the meantime had passed up the said river beyond said point, turned about and again ran down the said river, and with great force and violence ran foul of and on board the said boat of your libellant, striking her about fif-

teen feet behind the bow on the larboard side, when she immediately began to leak; that when your libellant discovered that his boat was leaking, he requested the crew of the said steamboat to tow his boat ashore, which they began to do in the direction of the Jersey shore, but they cast her loose before she reached the shore, and she again drifted out into the stream. The boat of your libellant was then making water very fast; that the said steamboat then again proceeded up the said river, and when she was about a mile off again turned about and ran down towards the boat of your libellant, which by this time had drifted out nearly to the middle of the stream; that the said steamboat came down with great rapidity and ran directly into the stern of your libellant's boat, breaking the same in, when she began to sink rapidly; that within the space of ten minutes after the last mentioned collision, the water was on the running boards and hatches; that your libellant then requested the crew of the said steamboat to tow his boat ashore as quick as possible; that the captain or some of the crew of said steamboat at first refused to do so, and asked your libellant to abandon his boat and come on board the steamboat, which he refused to do, and insisted upon their giving him a line and towing him to shore; at length they gave your libellant a line, and proceeded once more to tow the boat towards the Jersey shore; but before she reached the shore, she went down in about three fathoms of water; that your libellant was rescued in a small boat which put out from the shore, the other hand having been previously taken on board the steamboat.

Third. That the said boat, "Judge Royer," before and at the time of receiving the damage from the said steamboat, "Superior," as hereinbefore mentioned, her tackle, apparel, and furniture, were then, and now are, the property of the libellant; and that the cargo on board was then, and now is, the property of the persons hereinbefore mentioned; that, immediately after the damages before mentioned happened, several men were employed to haul the said boat ashore, and take out her cargo, or what remained of it, which they have partially succeeded in doing; but all of said cargo is greatly damaged, and much of it entirely destroyed, and the boat of your libellant, so far as has been ascertained, cannot be put again in running order under two hundred and fifty dollars; that all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court. In verification whereof, if denied, the libellant craves leave to refer to the proofs, to be by him exhibited in this cause.

Wherefore the libellant prays that process, in due form of law, according to the course of courts of admiralty and of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamboat "Superior," her tackle, apparel, and furniture, and against "the Philadelphia and Havre de Grace Steam Towboat Company;" and that the said company and all persons having or pretending to have any right, title, or interest therein, may be cited to appear and answer all and singular the matters so articulately propounded; and that this honorable court would be pleased to pronounce for the dama-

ges aforesaid, and to decree such other relief to the libellant as shall to law and justice appertain; also to condemn the said steamboat and the said company, and all persons intervening for their interests in said steamboat in costs.

A. VANDERSLICE.

Affirmed to and subscribed, this 19th day of May, 1846, before me.
THOS. D. SMITH, *Alderman.*

Affirmed to, this 21st day of May, 1846, before
J. BURCHARD, *U. S. Comm'r.*

And afterwards, to wit, on the 8th day of December, 1846, Ferdinand W. Hubbell, esq., another of the proctors of said court, also comes into the said court, and exhibits the answer of respondents to the libel aforesaid, and the same being read and filed in the words following, to wit:

UNITED STATES OF AMERICA,
Eastern district of Pennsylvania.

To the honorable Archibald Randall, judge of the district court of the United States, for the eastern district of Pennsylvania.

And now the Philadelphia and Havre de Grace Steam Towboat Company appear before this honorable court, and in answer to the libel and complaint of Anthony Vanderslice, master of the canal boat or barge "Judge Royer," in his own name and behalf, and also in the name and behalf of the following named persons, consignees and owners of the cargo of the said boat or barge, viz: Ziba Bennett, George H. Fowler, Fincher & Thomas, L. B. Rupert, George Masters, John Sharpless, Abrabam Miller, Rickets & Stewart, William Waller, William Bird, J. E. Sands, E. Hughes, J. K. Sharpless, R. McCoy, C. B. Bowman, Wm. Robinson, Heffley & Mendenhall, George Weaver, Wolfe & Roush, John Pennepacker, Reim & Kault, George Zinn, Henry Buchler, G. W. Buffington, D. W. Gross, Samuel Wertz, and Jacob Hibler, allege and articulately propound, as follows:

First. That the cause of complaint in the said libel alleged being a cause of collision, civil and maritime, said libellant hath improperly and in violation of the 15th of the rules of practice of the courts of the United States in causes of admiralty and maritime jurisdiction in the instance side of the court prescribed by the Supreme Court of the United States, in pursuance of the sixth (6th) section of the act of Congress, passed the 23d day of August, 1842, joined in the said libel, and proceeded against both the said steamboat "Superior," and these respondents as the owners thereof. And these respondents not waiving the said exception, but claiming the full benefit thereof, do further answer.

Second. That these respondents are not bound to answer so much of said libel as pertains to the interest of the shippers in said canal boat; said shippers residing within this district, and the said A. Vanderslice

exhibiting in his libel no title to represent them, nor to institute a suit in their behalf, and the said shippers not having intervened in this suit according to the terms prescribed by the thirty-fourth of the rules aforesaid so prescribed as aforesaid, which regulates the terms of such intervention. And these respondents, not waiving the said exceptions, but insisting on the same, do further answer.

Third. That they are a body corporate, duly created and established by a certain act of the legislature of Pennsylvania, passed on the 1st day of February, A. D. 1841, entitled "an act to incorporate the Philadelphia and Havre de Grace Steam Towboat Company," and that in pursuance of the power given them by the said act of assembly, they became and were at the time the said supposed events in the said libel are alleged to have occurred, owners of the said steam towboat "Superior," and engaged in the towing vessels, canal boats, &c., between Delaware City, at the hither end of the Chesapeake and Delaware Canal, and the city of Philadelphia.

Fourth. That on the fifteenth day of May, 1846, the said steamboat "Superior," so being the property of these respondents, and under the command of Thomas C. Metts, the master or captain employed by these respondents, departed from the city and port of Philadelphia, bound to Delaware City, having in tow three canal boats, to wit, one called the "Lloyd," another called the "Judge Royer," which is the same boat mentioned in the said libel, and another called the "Forget-me-not." Said steamboat with said canal boats in tow got under way about nine o'clock in the morning on the day aforesaid, the wind blowing very heavy from the south. The master of the said steamboat had previously to the departure of the said steamboat felt doubtful as to the propriety of the measure, as the wind was blowing hard and the weather unfavorable, and particularly as the said canal boats which were to be towed were heavily laden, and two of them, (of which that mentioned in the libel was one,) were Schuylkill canal boats, and not properly constructed to encounter the rough weather of the river, and the said master of the steamboat, at the request of the president of your respondent's company, communicated these views to the said A. Vanderslice, and to the captains of the other two boats, and told them that if they persisted in going it must be at their own risk. They did persist, and the said steamboat started on the voyage as above stated with the boats in tow; as they rounded off the wharf the bow ring of the "Forget-me-not" came out and she was left; before the steamboat with the said two remaining boats in tow reached that part of the river which is opposite the navy yard, the captain of the boat called the "Lloyd" requested to be cast off, as he declined proceeding any further; the steamboat sheered in towards the wharf and cast him off; the captain of the steamboat then asked the said A. Vanderslice if the "Judge Royer" had not better be cast off at the navy yard; but he declined, saying "there is no danger, I will risk her;" but before the said steamboat, and the "Judge Royer" arrived opposite the "Point-house," the waves ran so high and she was so unskilfully steered that said canal

boat lost three or four barrels of her cargo off her deck, and thereupon the said A. Vanderslice requested the said captain of the steamboat to cast the canal boat loose at the Point-house wharf; the captain of the steamboat did so, but the said Vanderslice instead of running on the soft muddy shore along side of the wharf, which he was exhorted to do by the crew of the steamboat, run the head of his boat directly against the wharf, whereby said canal boat was caused to leak badly; and not being sufficiently manned, as he had no assistant but a small boy, he failed to get a line ashore, and after striking the wharf said canal boat floated into the stream. This being seen by the master of the steamboat, the steamboat was rounded alongside of the canal boat in order to get a line fast to the canal boat, and take her in tow again. After this was done, it became necessary for the steamboat to go ahead a little to prevent her from running foul of the wreck of a vessel that was lying there on the shore immediately below the Point-house wharf. This movement unavoidably brought said canal boat in contact with the fenders of the steamboat, and the river being very rough, with a high wind from the southward, and strong ebb tide, both vessels fell across the tide, which caused them to roll very much, and thus brought the canal boat under the guards of the wheel of the steamboat, and carried away five of the arms of the wheel on that side. The said canal boat was then, by the exertion of the master and crew of the steamer, got in tow astern of the steamboat, when it was resolved to tow her over to the Jersey shore, that being the smoothest shore. This was done with the consent of the said A. Vanderslice, he making no objections. She was run close to the shore on that side, so that said Vanderslice had command of her with a pole, by which he could have set her on the sandy beach and secured her; but instead of doing this he pushed her off, being deterred from pulling her on the beach by the clamors of some fishermen, who said it would interfere with their fishing. In the mean time, the steamer had started up the river, her captain and crew thinking all was safe in regard to the canal boat; but it was observed shortly after, that the canal boat had again drifted out into the stream. The captain of the steamboat then went back to the aid of the said boat, and towed her to Gloucester point, on the Jersey shore, when the said canal boat filled, and her hatches came off, and part of her cargo floated out, and the captain of the steamboat obtained the services of some of the fishing boats to pick up and save the goods which had so floated out; and thereupon the said steamer, not having it in her power to render any more assistance to said canal boat, returned to the city.

Fifth. And these respondents further say, that any loss, detriment, or damage, which may have accrued to the said canal boat or her cargo, is attributable to the insufficiency of the said canal boat for the navigation of the river in rough weather; to the imprudence of the said A. Vanderslice in persisting to go down the river when cautioned against the danger; to the want of sufficient hands or crew on board said canal boat; and to the want of skill in those who were on board of her.

As, for instance, the loss of the barrels of mackerel, which is the first loss complained of, (although it was highly imprudent for said canal boat to carry any deck load,) was caused by her being steered in such wise that the head of the canal boat, instead of being kept in the direction of the line of motion, was steered in a direction transverse to that line, and towards the Jersey shore; and the collision with the wharf at the "Point-house," was caused by the fact that the small boy was unable to unhook the tow line which had been slacked off by the steamer for that purpose; and the said Vanderslice was obliged to leave his helm and go to his assistance, or thought he was obliged to do so, though really not, for the crew of the steamboat seeing the inability of the boy, had thrown the line entirely loose from the steamer. While said Vanderslice was going to the boy's aid, the opportunity was lost of steering the canal boat on the mud, which he was loudly exhorted to do by the crew of the steamer. Besides, had some one jumped on the Point-house wharf when said canal boat reached that wharf, and secured her to the wharf by a line, she would have escaped all the subsequent disasters; but she was, in consequence of the want of a competent and skilful crew, permitted to float adrift; and so also, when she was towed to the Jersey shore, had some active person leaped ashore with a line, or had said Vanderslice persisted in setting her ashore with his poles, she would have been saved a great part of the damage, but she was again pushed off, and permitted to float adrift. In all these occurrences there was no negligence or misconduct on the part of the master or crew of said steamboat, but the most earnest and skilful efforts to save said canal boat were made; and if there was any collision, it was inevitable, from the rolling of the waves, and the force of the wind and tide, and the necessity of going near said canal boat to aid her.

Sixth. Such being the true narrative of the disaster which befel the said canal boat and the cause thereof, these respondents further answering say, that it is not true, as stated in the said first article of said libel, that said canal boat was, on the fifteenth day of May last, a tight, staunch, and well-built vessel; because, considered with reference to the necessities of the navigation of the river Delaware she was not so, though she may have been perfectly competent for canal navigation; and it is not true, as stated in said article, that she had on board, and in her service, a full and sufficient complement or number of hands; one man to hold the helm, and another man to tend the line, and a boy to drive the horse are considered necessary, even to navigate a quiet canal; and two full grown and competent hands are a small crew to navigate a heavily loaded canal boat, represented in libel to be of the burthen of ninety-six tons, on a large river, in boisterous weather. As regards the other matters as stated in the said first article of the said libel these respondents say, that they believe that said canal boat was bound to the destination stated in said article, and that she was deeply laden with merchandise; but they are ignorant of the value or description of said merchandise, or to whom it belonged. And to the said second article of said libel they say, that true it is that about half a mile below the

navy yard they did alter the position of said boat so that she was towed astern; this was deemed a more eligible and advantageous position than being alongside, where she was liable to be injured by the rolling of the steamboat, and by being kept in the wake of the steamboat it was hoped that the force of the winds and waves would be broken before they reached the canal boat. And these respondents further say, that it is not true, as stated in the said second article, that the captain of said steamboat ordered the said libellant to steer the head of his boat into the dock at the "Point-house;" but he, the captain of the steamer, being in the wheel-house steering, his men gave, by his directions, the advice to steer the canal boat upon the mud, as above stated; and it is not true, as therein stated, that an additional head of steam was let on to the said steamboat so as to drag the said canal boat with great force against the said pier. On the contrary, as the steamboat approached the wharf, the head of steam was gradually decreased, and then the wheels were stopped and finally backed.

That the said steamboat did not, while the said canal boat was lying at anchor, nor at any time, run foul of and on board the said canal boat; but she, being a weak canal boat and heavy laden, and having received a severe concussion against the wharf, the master and crew of the steamboat, when they saw her again out in the stream, apprehended she was in peril, and went again to her assistance, as above stated; which was done with the approbation of said Vanderslice, who raised his anchor for the purpose of being towed to the Jersey shore. That the said steamboat did not cast the said canal boat loose before she reached the Jersey shore, as stated in the said second article of the said libel, but went as near the shore as the steamboat could go without grounding, and did not cast her off till she received sufficient impulse to carry her to the shore; and that the said steamboat did not, after the canal boat had drifted from the Jersey shore nearly into the middle of the stream, nor at any time run directly into the stern of the said canal boat, as is most untruly alleged in said second article; but that when the steamboat came to the assistance of the canal boat, after she had so drifted from the Jersey shore, the waves were in such commotion that the stern of the canal boat unavoidably got under the bow of the steamer and suffered some injury. And these respondents further say, that the captain or crew of said steamboat never refused to tow the said canal boat ashore, as is most untruly alleged in said second article; but the causes of the disaster of the said canal boat are such, and no other, as these respondents have set forth in the fourth article of this answer. And these respondents further answering say, that they know nothing as to the ownership of the said canal boat, nor as to the extent she has been injured, nor as to the extent of the injury of her cargo.

Seventh. That all and singular the premises are true; in verification whereof, if denied, the respondents crave leave to refer to depositions and other proofs to be by them exhibited in the cause.

Wherefore, the respondents pray that this honorable court would be pleased to pronounce against the libel aforesaid, and to condemn the

libellant in costs, and otherwise right and justice to administer in the premises. And as these respondents are a corporation, as above stated, but have no corporate seal, they have caused this their answer to be signed in their behalf by their president.

SAMUEL C. MORTON,
President of the Philadelphia and Havre de Grace Steam Towboat Co., June 9th, 1846.

And thereupon libellants reply generally.

January 1st, 1847.

George W. Holmes, sworn on the part of the libellant, deposes and says: In the month of May, I was in the Glos'ter steamboat Robert Wharton; she plied between Greenwich point and Glos'ter point; I was on board in the capacity of steersman; I recollect the disaster to the canal boat Judge Royer, but don't recollect the day; I don't recollect the month; I recollect it was in the spring, last spring. When I first saw the boat Judge Royer coming down, she was opposite to the powder wharf; I was standing on the slip, and she was coming down the river in this direction, a west direction, and then she hauled her course about south; I am now speaking of the steamboat and the way she was coming down the river; I mean the Superior; she run and then hauled up, steered her course down, right past the wharf, Greenwich point wharf, and as she came along past the wharf, she slacked her line and told them on board the Judge Royer to let it go, the line; and the young man jumped to let it go, and the line tightened so that he could'nt get it loose; and thus she struck the wharf, Greenwich point; and, if she had'nt struck the wharf, [objected to by Mr. Hubbell,] she would have struck the steamboat Robert Wharton; I could'nt tell how fast she was a coming, she was coming down with the tide.

Question. What do you mean when you say she was coming with the tide; was she drifting with the tide or running ahead of the tide? (Objected to.)

Answer. Well, her engine was working forwards.

Question. Describe to us more particularly the rate at which the engine was working. (Objected to.)

Answer. I think the engine was working about two knots; her machinery stopped just before the canal boat struck the wharf; the canal boat was not more than the length of the boat above the wharf at the time the machinery stopped; the canal boat striking the wharf, making a dent in one of the logs, and then she slew'd round, the canal boat, and went round the Robert Wharton's bow.

Question. From the rate at which the canal boat was coming down, what would have been the probable consequence if she had struck the Robert Wharton instead of the wharf? (Objected to.)

Answer. Why she would have sunk by the Robert Wharton.

Question. At the time they hallo'ed to the canal boat to let go the

the line, and from that time until she struck the wharf, could any one, two, or three men on board the canal boat, have unhooked and cast off the line? (Objected to.

Answer. Not if it was taken with turns round the kleet, they could'nt; I did not observe whether this line was or not fastened in that way.

Question. What is your reason for saying that?

Answer. Because when I *seen* it, it was taut.

Question. Did you at any time see the captain of the Judge Royer leave his helm before the canal boat struck?

Answer. I did not. The whole time I saw him, he was standing at the helm.

Question. What is the manner in which a skilful commander of a towboat brings the boat which he has in tow to a wharf?

Answer. Against the tide; this boat could not have been brought in so well as against the tide; with careful management she could have been brought in against the tide with safety, with careful management of the captain of the steamboat; I can't say how far from the end of the wharf the canal boat struck, about fifteen feet I think; the Superior drifted just below the wharf after the canal boat struck; after the Superior got below the wharf, the Robert Wharton went over to Glos'ter; I went in her; Andw. Miller at this time commanded the Robt. Wharton.

Cross examined by F. W. Hubbell, esqr.

I reside at Glos'ter point; I am going to work to-morrow, I expect, in the navy yard at laboring work; it is hard for me tell where I was just before I stood on the slip, because I was standing by the cranks.

G. W. HOLMES.

Sworn and subscribed, Jan. 1, 1847.

JOHN BINNS,
U. States commissioner.

January 28th, 1847, 7 o'clock, p. m.

Parties present. John Devoe, sworn. I followed the water; I am captain of the steamboat Burlington in the towing business, eight seasons; I commanded the Burlington four summers and the Hornet four summers; I was engaged in towing; we plied between Carr's Garden on Schuylkill and Bordentown; I know Captain Ant. Vanderslice; I have known him about eight years; I became acquainted with him by towing his boat from Schuylkill to Bordentown; I have towed his boat up and down probably 40 or 50 times, and may be more up and down; I have towed him very often from Schuylkill to Philadelphia, and let him go on the flood tide; I have towed him from Bordentown to Bristol, and let him go on the ebb tide; towed him from Bordentown to Richmond, and let him go on the ebb tide; from Bordentown to Philadelphia, and let him go on the ebb tide; he carried considerable flour and different

merchandise when he ran from Schuylkill to Philadelphia, and let him go on the flood tide; I don't remember towing him down from Bordentown with any merchandise; he may have had a little cargo at times; when I ran up with him, that is, from Schuylkill to Bordentown, he was carrying coal; when his boat was small before he built on her, he carried from 55 to 60 tons; when he built on his boat, which was last summer a year ago, he carried from 85 to 90 and 95 tons; he might have carried more for what I know of it; it runs in my mind he carried a hundred tons; I think when she was carrying 90 tons she drew five and a half to six feet; no accident ever happened to his boat when he ran with me.

Question. Describe the character and capacity of Captain Vanderslice as a boatman. (Objected to.)

Answer. He was capable of taking charge of a boat; he was always attentive to his business when I had him in tow with the Hornet or Burlington; he was in good health at that time; appeared as hearty a man as any on the route; he was hearty at that time; his activity seemed very smart at that time, and his strength appeared to be very good; I never saw anything to the contrary of his being a temperate man; he always seemed so when I had him in tow; I mean to apply what I have said of him down to the present time; I never knew him to be unwell till this summer; he always appeared to be well and hearty; towards the latter part of the time Captain Vanderslice ran with me, he had on board his boat a boy; I don't know his name; a stout boy; he looked to be stout and hearty. [Mr. Hubbell wishes the commissioner to state that the last sentence was volunteered by the witness.] The boy's apparent age was about 14 or 15; he appeared to be a smart active boy on board a boat; when I would have the boat along side the Burlington, I would ask him for the bow line, tow line, and stern line; he seemed to do it as quick and easy as a man would of 24 or 25 years old.]

The above description in brackets was in answer to the question of Mr. Brooke, in these words:

"Describe what kind of a boy he was."

Question. Have you anything more to say about the boy?

[Answer. I have often, when I have come here from Bordentown to Philadelphia, *I have* rung the bell for Captain Vanderslice to shove out his boat on the ebb tide to come along with the Burlington, and took him in tow; nobody but the Captain and boy aboard; had no difficulty about getting the line to make fast to the Burlington, I often called on the boy to stand to the helm and steer; he done as well as a man would do at the helm. A. For that matter I have seen boys ten years old steer a boat as well as a man; many a time I have had them do it; I have towed many a boat from Carr's garden to Philadelphia and only had a boy aboard; a canal boat I mean; here at Philadelphia the captains would get aboard their boats, some of them, and would go along up pretty well corned; I suppose you know what I mean, I mean drunk; some of them would go up by way of a pas-

senger boat, and stand at Bordentown wharf waiting for their boat to come in the creek on flood tide; as soon as she would strike the wharf, they would jump aboard of her.]

[Mr. Hubbell desires the commissioner to state that the foregoing, enclosed in brackets, has been in answer to the question by Mr. Brooke of "have you anything more to say about the boy?" Mr. Brooke desires the commissioner to state that the matter so enclosed was in answer to a question by him in these words, "have you anything further to state;" which he asked the witness at the letter A. The commissioner thinks proper to state that he has no recollection of Mr. Brooke having asked the last question.]

Question. When a canal boat is in tow, how many hands on board her are requisite to manage her?

Answer. Two hands, a captain and a boy or a man.

Question. What are their duties, respectively?

Answer. To attend to their boat.

Question. What attention does she require?

Answer. To see that she gets no water in; to attend to pumping it out. When we let go their boat, it is all in their charge. We consider, when we have a boat to the steamboat, if we run her foul of a vessel (objected to) or wharf [so as] carelessly to sink her, they look to us, and expect us to pay the damage.

Question. Whom do you mean by us?

Answer. That's carelessness by the captain.

Question. Answer my question. I repeat the question, Whom do you mean by we?

Answer. I mean the company.

Question. What company?

Answer. I mean the Union line.

Question. What do you mean by the word "carelessly?"

Answer. Letting a boat go carelessly, running her into a wharf, and sinking her.

Question. What is the right mode of bringing to the wharf in rough weather a canal boat in tow?

Answer. We sometimes round to against the tide to fetch her to. We round to, in case she is not loaded too deep, so that, in case we think she should'nt get under the spurs, to land at the wharf safe.

Question. In case she is louded too deep to round to, what course do you adopt?

Answer. We let go of him, and run her ashore on the mud, or let them drop off easy to the wharf without doing any injury.

Question. Do you know how many *tows* the "Judge Royer" had on board when she was run against the wharf, at the Point-house, by Captain Metz?

Answer. I can't rightly recollect.

Question. What quantity of water would the Judge Royer draw when she had on board 40 or 50 tons?

Answer. Three feet to three and a half.

Question. Drawing that quantity of water, would there be any danger, in rounding to of her getting under the spurs of the steamboat?

Answer. No, sir; there would not be any danger; the steamboat spurs touch the water, and no danger of getting under them. It would have to be rougher weather—rougher sea it ought to be—than I have ever seen between the Schuylkill and Bordentown, to get a canal boat under the spurs, drawing three feet and a half water, rounding to in a heavy sea.

Question. If the towing line was made fast on the canal boat by a loop slipped over the windless, would it be practicable for any man on board the canal boat to cast it off while the boats were going? (Objected to.)

Answer. Eight or ten men could not get this line off while the boats were under way, if the eye was over *over* the windlass.

Question. Have you ever been on board the canal boat Judge Royer since she was rebuilt?

Answer. I have been on board of her several times, and took her to be a first rate boat; a good boat also.

Question. When were you last on board of her before she was run against the Point-house wharf?

Answer. Last fall a year ago I was on board of her several times; went to the captain; talked with him. (Objected to.)

Question. In what condition was the boat at that time, as regards strength?

Answer. She was a great deal better than some others we had in tow. (Objected to.)

Question. Did you tow any boats of her size of greater strength than the Judge Royer? (Objected to.)

Answer. Not of the same age. We have had some older boats, and we have had some new boats, that was not half as old as her, (objected to,) [that] did not appear to be any better than the Judge Royer.

Question. Were you at any time, and when, called upon by Captain Metz and Captain Skellinger together, in relation to the disaster to the Judge Royer? If so, state what occurred. [Objected to.]

Answer. I was called upon by Captain Skellinger and Captain Metz. They came to see me about the sinking of the Judge Royer; the week before last it was they called. They asked me a few questions; said they wanted me to call *me* down to see their lawyer. I don't know that they called up particularly; they might probably have called up there to see the steamboat Burlington; she was cut in half, 96 feet put in the midships of her; they seemed to have a great desire; a great many people came up that way to see her.

Question. Did you answer the questions that they asked you relative to the sinking of the Judge Royer? (Objected to.)

Answer. I can't remember what the questions rightly were just now; I answer'd some few of them; I told them that I did'nt (objected to) know hardly what was to be done in such a case as that.

Question. Did they ask you, after you had answered their questions, to call to see their lawyers? (Objected to.)

Answer. No, sir.

Adjourned to the 29th, 7 p. m.

January 29th. Parties appeared; no witnesses appearing, adjourn'd to Wednesday, Feb. 3d, 7 p. m.

The witness has not since that time appeared before—

JOHN BINNS,
Com'r U. S. court.

Cross examination of John Devoe, by F. W. Hubbell, esq., for respondents.

I have never had the misfortune to lose a boat that I was towing; I don't recollect rightly about whether I did or did not tell Capt. Skellinger and Capt. Metz something to that effect; I rather think that I told them both that I never lost a boat; I do remember of my telling them once, how rough the river was once, and what difficulty I had in rounding to, and what a scrape I was likely to get into; I commanded the steamboat "Hornet" at that time I spoke of; we had eight of those Schuylkill boats in tow, loaded; the wind was blowing very heavy from the northeast, and made a very heavy swell, so that the Hornet would not steer them; it was in April, 1837 or 1838; I think 1838; we did not attempt to round to, we kept across the sea; we kept straight ahead; the steamboat Hornet and all the boats got right across the sea; the trough of the sea; we dropped the boats astern with a long line so as to be safe, to try to get them into the dock some where, and in getting in we ran foul of the steamboat Pioneer, at Arch st. wharf; she was lying there and we had a great time; we were going up stream with loaded boats; we got them off a little, and started up the river again with them, and as we started we got into the trough of the sea again, the boats towing away behind; one of the captains of the boats began to halloo out that the [boat] was sinking; I made right straight for Willow st. basin; made a round to with the boats against the tide; made the Hornet fast to the wharf; the sea was so great there where we rounded to at the wharf, the captains then were all hallooing, that they were all sinking and getting broken to pieces; myself and my crew all went back to give them assistance, to haul their boats into the basin; we ran around; some of the men ran around to the wharf, and some of the boats were close enough to the wharf so that I could get upon them; at that time the "Hornet" was tied to the wharf; the first wharf above Callowhill; there was one old open boat among the lot; that the captain was crying out all the time that he was sinking, and he was taking in water very fast; I got him into the Willow street basin, and there he sunk; he had the captain and a stout boy on board of his boat; they were the hands aboard; the others hallooed out that they were sinking, and they were broken a good deal running about among the wharves, but we had the good luck to save them all; in the other boats were a

captain and a man and a boy; they were all going to York; all the boats that go to York have the captain, a man and a boy; that is the rule; but it ain't always aboard of 'em; this open boat was ageing to Frankford creek, had only a captain and a boy; he had sometimes a man and a boy, but when I towed him he had but a boy; the boat had a captain and a boy; boats from that creek sometimes had three in a crew; this was an old, open, ragged boat; I never towed boats without a full crew on board of them in rough weather; we made a regular practice to leave all boats at Schuylkill that had not a full crew on board in rough weather; by full crew I mean, if the captain was on and a man, that is what we call a full crew on those boats, and a boy, driver, he is called a driver, and this is the same on boats going to New York; those boys make very good exertions sometimes.

Being cross examined by C. Wallace Brooke, esq., witness says:

Question. When you speak of leaving all boats behind in rough weather which have not a full crew, do you mean to say, that if there was a captain and man on board, without the boy, that you would leave such boat behind? (Objected to by F. W. Hubbell, esq.)

Answer. No, sir; it was a heavy sea running over the sides that caused the boats to leak, as I have before spoken of, when we were rounding to, and when we *was* running right *strait* up the river it took in a great deal, and some came in over the bows; it struck and went over the bows; those boats were very heavily laden; those boats were about 60 to 70 tons, and 55 tons, some of them; those boats did not load to come down Schuylkill with a full load; some of 'em that came down Schuylkill had from 55 to 60 tons on; boats had 65 to 70 tons to load at Schuylkill.

Question. If those boats had not been so heavily laden, would they have been so apt to ship seas? (Objected to by F. W. Hubbell, esq.)

Answer. No, sir.

Here the witness desires to state, in explanation of his testimony in chief, that he has been informed by Captain Vanderslice, since his examination in chief, that the boy that was on board at the time of the loss of the Judge Royer, was not the same boy as the one spoken of by the witness in his examination in chief. This information he received in reply to a question he, the witness, addressed to Captain Vanderslice on the subject.

JOHN DEVOE.

The cross examination taken before Alderman Bulkley, by consent.
Philadelphia, February 11th, 1847.

FERDINAND W. HUBBELL,
CH. W. BROOKE.

In the U. S. district court, for the eastern district of Pennsylvania, in the case of Vanderslice vs. the steam towboat "Superior."

Wm. M. Shepard, a witness sworn and examined on the part of libellant, deposes and says: I commanded the iron steam towboat New

Jersey, running on Schuylkill, from Fairmount to Carr's garden, as our regular tow; I have been in command of her for five years, and left her last new year was a year; that is the only boat I have commanded; before that, I was employed on board the steamboats Pennsylvania and Delaware, both of them commanded by Capt. Skellinger, as engineer; I was on board them in that capacity for about three years, regular running; those were the only two boats I had any thing to do with; we were running the line boats before that; I mean by line boats passenger boats; I was on board the old Philadelphia, the new Philadelphia, and the Charleston packet, as engineer on each; when I commanded the New Jersey, I was captain and engineer, and Robt. Dougherty was pilot; I came down here, I judge, about two weeks ago, to be examined as a witness in this case; I saw Capt. Metz here; I am now employed as foreman of J. P. Morris & Co's boiler shop, at Richmond; we have been doing some work on Capt. Skellinger's boat, the Pennsylvania; we began it, I guess, five or six weeks ago, and finished her last week; Capt. Metz was up there once since I met him here; he was with Capt. Skellinger there; he was talking about this case; the regular tonnage they used to carry, was about 55 or 60 tons of coal; that was the average; I mean the boats we towed; we generally used to think two hands was a competent crew with us, two hands [and] a boy was the crew of a boat; the boy was generally taking care of his horse and the two hands were taking care of the boat; when we had the boat in tow, two hands were necessary on board the canal boat, one to steer and one to stand by and let go the line or hold the fender, if it were necessary, if the boat was likely to strike any thing. Well, yes, a boy of 14 or 15 years could let go the line or hold the fender, if he were a smart boy; we generally come to a wharf with the boat's head against the tide, that's coming to against the tide; I am a little acquainted with the Delaware river, in the neighborhood of the Point-house.

Question. If you were going down the river with a single boat in tow, on an ebb tide, and the wind setting off the Jersey shore, and you wished to cast off the boat above the Point-house pier, in what manner would you do it?

Answer. Which side would you wish her landed? (Mr. Brooke says on the Pennsylvania side.) If the wind was blowing, which I thought was stronger than the tide, I would come to with the tide. If not, I should round to, fetch her head to the tide.

Question. When the canal boat is deeply laden, has the wind or the tide the greater influence on the boat?

Answer. That depends altogether how hard the wind blows; if the wind blows very hard against the tide, it lulls the tide, and of course then it takes the lead of the boat and drives her against the tide.

Question. If you deemed it expedient to come to with the tide, describe particularly the manner in which you would do so.

Answer. It would depend on what rate I was going through the water; I could not tell, exactly, anything more; it would depend altogether on circumstances.

Question. Would you slack your speed?

Answer. If I had the boat alongside, I should stop and back with the boat alongside of the wharf; if I had the boat astern, I should let her go at a proper distance that I thought she should have headway enough to fetch the wharf.

Question. If you wished to cast her off above the wharf, at the Point-house, in order that she might run in on the shore, how would you do it, if the boat was towing astern?

Answer. I don't understand that question; if I had the end of her line towing, I would let it go; if he had the end of my line, I would halloo to him to let it go.

Question. Would you slack up to enable him to let it go?

Answer. If the line was jam'd so that he couldn't let it go, I should stop and let it slack.

Question. If the line was jam'd on board the canal boat, and she was in danger of striking on the upper side of the wharf, would you, in order to prevent her striking, if it should be necessary, cast the line off your boat? (Objected to.)

Answer. If it would prevent her from striking I should.

Question. With a strong ebb tide, at what distance above the Point-house pier would you let the boat go?

Answer. I should have to judge from the rate I was going through the water, and how high the wind was blowing.

WILLIAM M. SHEPPARD.

Sworn and subscribed, March 18th, 1847, before—

JOHN BINNS,
Com'r U. S. district court.

U. S. DISTRICT COURT,
Eastern district of Pennsylvania.

VANDERSLICE et al., libellants,
vs.
THE PHILADELPHIA and Havre de Grace Steam Towboat Co., respondents. } In admiralty.

Depositions of witnesses, taken in pursuance of a rule of court granted in the above case, at the house of Henry Garber, in Upper Providence township, Montgomery county, Pennsylvania, before John Dismant, esquire, a justice of the peace of said county, on Wednesday, the 28th day of October, 1846, between the hours of 3 and 10 o'clock, p. m., of said day, on the part of the libellants, John D. Blught, esq., appearing on behalf of the respondents, and C. W. Brooke on behalf of the libellants.

Jacob Hunsicker, aged sixty-two years and upwards, residing in Upper Providence township aforesaid, being duly affirmed according to law, deposes as follows:

I know Captain Anthony Vanderslice, of the canal boat Judge

Royer; I have known him better than forty years; I knew him when he was a boy, when he went to his trade; he learned the carpenter trade; he learned in Skippack township, Montgomery county, Pennsylvania, with Abraham Crater; he didn't follow the business of a carpenter long; he married pretty soon after he had his trade learned, and then he bought a farm in Skippack; he lived there, in Skippack, two or three years; he sold this farm, and bought another in this township; the same farm I live on now; I and my brother John bought it of him, 173 acres altogether; then he built this new house just above here, when he bought that land afterwards; he had a board yard just below here, on the Schuylkill, before he sold the farm to brother John and me; he hauled shingles from Columbia before he opened a board yard; he was in the lumber business 8 or 10 years, or may be more; when he gave up the lumber business, he went to boating; he went to boating 10 or 12 years ago; I went once from the locks over here, above Black Rock, to Port Carbon and back, as far as Schuylkill Haven.

Describe the character of Captain Vanderslice.

(Objected to by Mr. Blught.)

He was always held out a strong, hale, hearty man by every one, as much as I know; I never handled him; I can't tell whether he was a stronger man than me; I was always reckoned a pretty strong man, and I would not like to take hold of him; he was always a business man; I thought he was a man of active habits; he was always very sharp with me; he was always among the hands, and worked himself; he used to take his own produce down to Philadelphia and *sold* it; he opened a board yard down here along side of a hill; no road to it when he bought it; he got a road, but had a great deal of trouble before he got it; got a jury; the township defended, but he got it by compromising it, &c.; the township had to make the road; it is a very public place down there now, and a great deal of business done there now; I would have been afraid to buy the hill he bought before there was a road.

Cross examined by Mr. Blught.

I don't follow any thing now. I have given my place up to my son. I still own it. The captain was not a bold scheming business man. I considered him a prudent careful man, as honest as the day is long. He was never engaged in any business from the time he left his carpenter trade, except farming, lumber business, and boating. I most think he had his farm out on the shares while he was in the full lumber business. He might, may be, for some years have had the farm and the lumber business together. A great many of the people of the township were opposed to the road, but not all. It was called the Black Rock lumber yard not many acres, a mere hill. He built a couple of houses and a stone house on it. Don't know the price he paid for it. Captain is not now a man of property. I would'nt call

him so. He lives with his son-in-law in this new house he built, which he sold to his son-in-law.

JACOB HUNSICKER.

John Sowers, aged forty-five years, residing in Upper Providence, township aforesaid, being duly affirmed according to law, deposes as follows:

I know Captain Anthony Vanderslice. Have known him about 12 or 14 years, I reckon. I worked for him, in the first place, in the lumber yard. I worked for him a year or two; can't tell rightly how long. I have known him since, and know him now. Describe the character of Captain Vanderslice. (Objected to.)

Can't tell whether he was a strong man or not; he always used me well. I should think he was a pretty strong man. I thought he was an active man. I saw him, may be three weeks ago. When I last saw him he was sick. Don't know whether I saw him last summer or spring; I saw him in the winter. He then seemed like he always did. He was an industrious man; all the time I have known him I thought he was a man of good judgment.

Cross examined by Mr. Blight.

He was between 5 and 6 feet high, 5 feet 6 inches, may be. I reckon he would weigh 180 pounds. I can't tell much about what reason I have for supposing him to be a man of good judgment. Don't know any thing about his circumstances at present. I live in the same neighborhood in which he lives.

JOHN SOWERS.

Henry Garber, of Upper Providence, township aforesaid, aged about fifty-three years, being duly sworn, says:

I know Captain Anthony Vanderslice; have known him twenty-six years and longer; have known him intimately during the whole of that time. Haven't seen him since last spring; he was in the neighborhood a couple of times, but I did'nt get to see him. I saw him perhaps in March.

Describe the character of Captain Vanderslice. (Objected to.)

I have always considered him a very active business man. His judgment was very good. I always considered him a man of very good judgment, in business matters particularly. I have had dealings with him; always found him very honest and upright. I considered him quite a strong man, so far as frame and appearance of the man is considered. I never perceived any thing to the contrary; he was always remarkably healthy; never knew him to be sick until about two years ago, when he had a little sickness, but very trifling. I know that as a boatman he always stood as well as any boatman in the neighborhood. He never did any boating for me. I have had opportunities of observing his activity of habit. I frequently saw him at the landings loading

and unloading. He has been very much trusted by the people of the neighborhood with loading; no man more so. He could always get such loading as many boatmen could not get, such as required care and attention. Never saw particularly any exhibitions of strength. He was a quiet kind of a man; never engaged in wrestling, &c.

Cross examined by Mr. Blight.

When I spoke of his strength, I spoke of his appearance and general health; don't now recollect any particular case indicating his judgment, but always considered it good; I allude to such business as he has been engaged in. In conversing about matters in general, I always found him a man of good sound judgment. He has brought up one load of goods for me, and I think two, a hogshead of molasses, and I don't recollect the other articles. I am a storekeeper, and have had many cargoes brought from Philadelphia by boats formerly, but not lately. I would now entrust him with a cargo in preference to any other boatman that I know of. (Objected to.)

HENRY GARBER.

Sworn and affirmed by me, and taken and subscribed in my presence at the time and place above mentioned.

JOHN DISMANT, *J. P.*

Jacob Nagle, a witness for the libellant, being sworn, deposes and says: I live in Chester county, Pennsylvania, Vincent township; I am a boat-builder; I worked in the old country at this business about nine years, and in this country about five; I know Captain Vanderslice; I rebuilt the boat called the Judge Royer for him, two years past this last summer; I built her up from the bottom up; some good timbers I leave in and some new I put in, for some as was old. I could'nt tell what new timbers I put in; I could see it in my book, but I did not bring my book along. I built her about 18 inches higher than she was before, and that was all new; all the plank on the sides, stem, and stern, is new too; one plank on the side, who was so good as new, I left that in; when I was done with her, she was as good as new; I could'nt tell the day I launched her; I finished her in August, I guess. I have it all in my book; it is all there. The bilge plank was all new, from the bilge plank up; all as one plank. I did'nt build many boats in this country; I help [ed] to build a good many new in Germany; I fix up a good many in this country; something broke; I build it, repair it for them.

Cross examined by F. W. Hubbell, esq.

My bill come to two hundred and eighty dollars, and he paid for all the stuff beside; I did this in Springville, in Vincent township, Chester county; I did not make her larger nor wider; the same. I live at Springville; I came from Wittenberg, in Germany; I helped to build a steamboat in Germany; I was hired as a journeyman; here I am

boss. The timbers were of white oak; the plank the same, white oak; I did not put a new keel in her, nor a new keelson; she had a flat deck, with hatches. I have been paid not quite all. I gave James Roches an order on Ant'y Vanderslice for the money, and I don't know whether that's paid or not; it was for sixty dollars. Before I raised her she was about 64 tons, and after I raised her she was from 90 to 100 tons; I mean, what you can put in [her;] so many tons coal, or iron, or store goods as is heavy. She carried 90 tons of coal; I did not see it, but I know it from the height of the boat, and all that.

FERIOB KIRGULE.

Sworn and subscribed before JOHN BINNS,
U. S. Com., D. C., E. D. P.

November 20th, 1846.

John Kern, a witness for the libellant, being sworn and examined, says: "I don't know the nature of an oath."

Question. Don't you know you will go to the devil if you swear to a lie?

Answer. I will swear to no lie.

Question. What will become of you if you swear to a lie; where will you go to?

Answer. I don't know.

Question. Don't you know there is such a place as heaven and such a place as hell?

Answer. Yes.

Question. Where will you go to if you swear to a lie?

Answer. If I swear to what is not right, I shall go to hell.

Question by Mr. Hubbell. When are you to go to heaven or to hell, as you swear to what is right or not right?

Answer. When I die.

Witness now sworn in chief.

I am going on 15 years of age; I have been four years running on board a boat, only last summer with Captain Vanderslice, on board the Judge Royer. I was on board her the day we ran with her against Glo'ster Point; don't know the day; it was in the summer.

Question. Are you sure of that?

Answer. I won't be right sure.

I don't mind what time we left Philadelphia; it was in the morning; it was the Superior we were in tow of; there were three boats when we started; one of them went down a piece, and the ring came out; she was cast into the middle of the river and made her way to the wharf. We took the other one down as far as the navy yard; there she was cast off and went into a wharf. The Judge Royer went down a piece; she was then towing astern; when we started from Philadelphia she was alongside of the steamboat; just after we cast the last boat off, she was cast astern; I don't mind where I was standing when

the Judge Royer was cast astern; I don't mind if I heard any thing said about casting her astern; when she was cast astern we went on down the river; lost some fish, can't tell how many barrels; more than one. She was turning round when the fish went off; I mean the steamboat was turning round, just below the navy yard; don't kn w the reason she was turning round; that was after she was cast astern. The captain of the steamboat asked Captain Vanderslice if he would stop, and he said yes. We came down along a piece, then the steamboat slacked off a little; she did'nt slack off time enough. Can't mind the rest.

Question. What do you recollect about her running against the wharf?

Answer. She struck the wharf, and then the steamboat cast the line off; the boat did not; I was standing on the bow of the boat when she struck the wharf; I don't mind as anybody from the steamboat sung out to me to do anything.

Question. Did they say anything about casting off the line?

Answer. I don't mind; the knock of the boat knocked me back on the hatches.

Question. When you found yourself coming toward the wharf, why didn't you cast off the line?

Answer. I got afraid.

Question. Was the rope tight or slack?

Answer. It was slack, when she was coming to the wharf.

Question. How far slack, was it in the water?

Answer. Yes, sir.

Question. How far were you from the wharf when you first noticed the rope was slack in the water?

Answer. I didn't take notice; I can't tell any nearer than that; I am not now afraid of anything; we were coming fast to the wharf; we struck the wharf hard; I did not see Capt. Vanderslice leave the helm at all.

Question. Were you at the bow of the boat all the time?

Answer. Yes, I was; I couldn't tell how near we were to the wharf when we first began to go slow.

Question. Was it as far as from here across the street?

Answer. Hardly.

Question. What did you mean when you said you were frightened?

Answer. Frightened at the knock of the boat; I was not frightened before the boat knocked; I tried to get the line off; I couldn't because the line was too strong; was too tight.

Question. How was the line fastened on the canal boat?

Answer. It was fastened on a kind of windlass.

Question. Had it passed it over anything; was it broken or otherwise?

Answer. There was a hook on the end of the line; it was passed round the windlass, and hooked on the line again.

Question. If the rope had been slack enough, could you have unhooked it?

Answer. Yes, I don't know if the line was slack in the water when I tried to unhook it; the canal boat drifted out; the steamboat went on down; we throwed the towing line from the canal boat on to the wharf to a couple of boys two or three times; they couldn't catch it; we were so far out we could not throw it on the wharf; we threw it on the wharf, and there was a little place to go round where boats are drawn up, and the boys were little, and didn't get round in time; then we tied the bow line on to the anchor, and then we dropped; then the steamboat came up alongside to get her big line that they had to us, towing us; the hands came on; I think one of them came on the canal boat, but I am not right sure; they were drawing it in, and it was fast in their water-wheels; then we drawed our anchor up; when we had it all up, she made a line fast to us, and went to take us across to Jersey shore; got us going across there; she was to give us headway to put us into the shore; she thought she had us in far enough; we cast the line off from the canal boat; then the steamboat went on up towards Philadelphia; the wind was so strong that the canal boat couldn't get it, so we got the poles and tried to pole her in, but couldn't do nothing with her; then she was going out instead of going in; then we halloed for a man standing right by the oyster-house; he was a boat builder, but we didn't know it then; we halloed a good while, but he didn't come; then we halloed for some fishermen who were there; halloed for them a good while, and they did not come; then the boat builder came with a little boat; he came over, and was going to get a line to tow us; then the steamboat we seen was coming; then he said it was no use, here's the steamboat coming, that he couldn't take her in; I was standing in the bow with this here other man; he had the chain of his boat in his hand; then he saw the steamboat was coming right fair into her; then he jumped into the boat, and I jumped into her too; when we went into the boat, the canal boat was sinking pretty quick; it was after she ran into us; the steamboat struck the canal boat on the side more to the right hand of the stern; then she was going down pretty fast, and we rowed the boat towards the steamboat; we both got out on to the steamboat; then we pulled the little boat into the steamboat; the steamboat ran up toward the bow of the canal boat to get a line; we got a line on her; I think she only made one trial to get it; I am not sure; when we got a line to her we begun to tow; the boat was all but sunk then, all but down; then there came a boat from the shore and took Capt. Vanderslice off.

Adjourned to the 24th, 4 o'clock, p. m.

Dec. 23, 1846. The witness, John Kern, brought up, and the proctors on both sides appearing, and the witness was called, and subscribed his examination, &c.

(Signed) JOHN CURRAN.

Sworn and subscribed, Dec. 23d, 1846, before

JOHN BINNS, *Comm'r.*

November 24*th*, 1846.

Archibald Towers, a witness on the part of the libellant, being duly

affirmed, declares and says: I have been acting as shipping clerk on the wharf off and on for the last 12 years; I know Captain Vanderslice; I have known him for the last 15 or 20 years. I know the boat, the Judge Royer, which he commanded; I saw her about a month before this accident; that was the first of my seeing her; she came to Mr. Bolton's wharf loaded with about 65 tons of for the Sch'l Navigation Company; she appeared to be in perfect good order then; I did not see them pump any water; I saw her pumps tried several times; never saw them pump any water of any consequence out of them; I was on board of her several times while she lay there; I saw her when she was empty; I don't know that I examined her at all. Captain Vanderslice has always been an active man, so far as I know any thing about him; I lived within three miles of him in the country, and saw him frequently while he has been boating; he is a middling strong man; never saw his strength tried.

Cross examined by F. W. Hubbell, esq. (Declined.)

A. TOWERS.

Affirmed and subscribed before

JOHN BINNS,
Commissioner U. S. court.

Nov. 24th, 1846.

William Davis, affirmed. I live in Montgomery county, in Upper Providence township, Pennsylvania. I know Captain Vanderslice, Anthony Vanderslice, captain of the Judge Royer; I have known him since about '31. I deal in lumber and coal. Captain Vanderslice has boated for me; he is a very persevering boatman; has been boating for nine years past; has boated considerable to New York, and been entrusted by the people in our neighborhood with the most valuable loading, grain and flour, &c.; I know him by reputation; I have never been with him on the boat; (objected to;) he is able bodied, very athletic man, and very cool when danger is pending; I would take him to be a man of good judgment; I have never heard of any accident happening to him except this that I read an account of in the paper; I mean the accident with the steamboat. I have often seen the Judge Royer; she is a boat of the greatest depth in the canal, except those they are now fitting out; she was renewed about two years ago, may be longer; it was a complete renewal; she was not so deep a boat before.

Cross examined by Mr. Hubbell.

I know of his courage by reputation; never seen him in any danger boating; never have boated with him.

Question. Then what you say as to his courage and coolness is merely hearsay.

Answer. It is not entirely so. I have had some means of knowing something about him in other respects than boating; I have known

him not quite 20 years; I could not state the exact year I first saw him.

Question. What are the instances that you have seen of his courage and coolness?

Answer. I can't particularize any now; I don't know his age; I have heard him say that he was born in the year 1790; I never saw him perform any feats of strength since my acquaintance with him; he is not a man that showed off his strength by making an exhibition of it; I know him to be a very muscular man; a stout man; I know it without being able to command language to give the reason why I know it; can't say I know what he weighs; I have weighed him. I deal in boards, shingles, laths, stone coal, and storing goods. I was subpœnaed to come here; that was the sole purpose why I came; I should not have come, but there was a subpœna left at my house. I suppose as I am here I shall do some other business. The Judge Royer was made deeper, added to like in depth; can't say when she was built; Vanderslice got her new off the stocks; can't say how long ago; I am not interested, nor was not interested in the cargo that was in this boat in no shape nor form; nor are any of my relations interested in it to my knowledge; I am not interested [in] the boat, nor related to Vanderslice. Vanderslice has his house within two miles of where I live in the winter season. I live 25 miles from Philadelphia. I was subpœnaed once before, and came and saw the captain, but did not get to the court-house.

WM. DAVIS.

Mr. Hubbell desires the commissioner to note that he objects to the whole of the foregoing testimony as irrelevant.

Affirmed and subscribed, October 23d, 1846, before

JOHN BINNS,
Commissioner U. S. court, E. D.

Lewis M. Bell, a witness on the part of the libellants, being duly sworn, deposes and says: I am forty-one years of age last September; I am by occupation a ship carpenter; I have also pursued various other businesses; I have been master of a sloop; I followed the sea; I sailed twice to the East Indies; I have commanded a steam ferry-boat, the New Jersey, of Gloucester point; she plied from Gloucester point to Chestnut street wharf, and occasionally to the Point-house; I had charge of her for four years, off and on; I worked at carpenter work in the winter season, and commanded her for four years in the summer season; I have towed canal boats, or any thing that came in the way, with it, brigs, ships, and barques; I was at Gloucester point at work on the day of the collision.

Question. Where were you on the day of the collision between the steam towboat Superior and the canal boat Judge Royer?

Answer. At work at Gloucester point; the first thing I saw of the steamboat and canal boat, they were above the Point-house, on the

Pennsylvania side; I can't say positively whether or not the canal boat was at that time attached to the steamboat; my attention was first drawn to her by Mr. Joseph Higg; he asked what that steamboat was that was running ashore, for I took a spy-glass, and said it was Capt. Metz, with the canal boat, in a scrape, I think I said it was; I have known Capt. Metz this 12 years and upwards; ever since I was 'prentice; I left, and went to my work; I was then preparing to fire plank, to go on a vessel that I was repairing, rebuilding; I was right on the brink of the river; the tide came up to the keel of the vessel, about from 150 to 200 yards from Gloucester point, say 200 yards; I had my son at work with me, he is between 16 and 17 years of age; his name is John Bell; he said to me, "Father, Capt. Metz is fetching that canal boat to Gloucester point." I told him then not to light the fire; I first looked up to the wharf; the wharf was higher than me, and down stream, and found nobody to take a line for Capt. Metz; I told my boy I would go down; I ran down with the expectation of Capt. Metz coming to the wharf; as near as I could judge, he was some 300 yards distant from the wharf when my son first called my attention to him, and rather below the wharf; it was ebb tide; the wind was to the eastward of south; I ran down to the wharf, but instead of his coming to the wharf, he left the canal boat some 150 or 200 yards below the wharf; I did not see the canal boat exactly, when she was cast loose; she was cast loose before I got down to the wharf; I was a very few minutes passing from the place where I worked; I ran right down; when I got down to the wharf, the canal boat was 50 or 60 feet from the shore; 60 feet at least; the captain and boy were both poling towards the shore when I got there; the boy hailed to me to fetch them a boat; said their boat was sinking; the canal boat at that time was drifting off the land; there is an eddy tide there, and the current up by the wharf sets out towards the stream, towards the channel of the river; there was a young man on the wharf named Albertson; he was standing by me; I asked him to help me to launch the batteau; I went out in her to the canal boat; Capt. Vanderslice asked me to help to pole ashore; he told me they were sinking; I asked him if he had any perishable cargo a-board; he said they had; told me some eight or ten thousand dollars worth, he did not exactly know what; I took up a pole to assist him to pole her ashore, and found the boat had so much stern way on her, was drifting out in the stream so fast, I told him it was no use to pole, I would make a signal to the ferry-boat Robert Wharton, which was then at the Point-house side; before she left the Point-house side, Capt. Metz had turned back to come back to the canal boat; he was then from half a mile to three-quarters up the river, coming to Philadelphia; when I reached the wharf, and saw the canal boat loose from the steamboat, the steamboat [was] towards the Point house, which is the way they go to Philadelphia at an ebb tide; I could not judge how far the steamboat was from the canal boat when I got on the wharf; I didn't pay a great deal of attention to the steamboat; I ran down to assist the canal boat.

Question. Was not the water there bold enough to have enabled the steamboat to have run the canal boat ashore without grounding the steamboat? (Objected to.)

Answer. The water was deep enough at the wharf; he could have come at the wharf very snugly; there was no steamboat in the way; the tide was right to come to the wharf; he was below the wharf; it was ebb tide; in answer to that question, I say it was owing [to] how the boat was towing; if she was behind, I shouldn't think there was water enough, but if she was alongside, she might be put ashore there?

Question. How many men would it require to pole the boat ashore from the spot where you first saw her after you got upon the wharf?

Answer. I couldn't say how many men; after I got aboard, I could tell more about it; well, I think it would have took from 8 to 10 men to pole her ashore after I got aboard; the difficulty was the current and wind; the wind was rather setting off the Jersey shore. The depth of the water where I first saw the canal [boat,] after I got upon the wharf, I should judge to [be] six feet; the depth of the water at the place where I first saw the tow boat coming down the river towards the canal boat, while I was on board the canal boat, was about 25 feet, I mean where the canal boat then was. After we had done poling we put our poles down and waited for the steamboat Superior; we drifted with the current, with the ebb tide; the steamboat Superior came; when within about 40 yards I found she was heading on to the canal boat, I cast off the batteau and jumped into the batteau and told Captain Vanderslice and the boy to jump in with me, that the steamboat "Superior" would run the canal boat down; the boy took my advice; Captain Vanderslice ran to the stern of the canal boat, the part where the steamboat was coming, and hallowed to the captain of the steamboat to back; the steamboat came on, struck the stern of the canal boat and sunk her down till Captain Vanderslice was knee deep in water; I started with the batteau then to the steamboat Superior; the batteau was very small and the river very rough; Captain Metz hailed me to take a line from the steamboat to the canal boat; I told him I had as much as I could do to get along myself; I rowed to the steamboat and got on board; Captain Metz recognised me then; he had'nt known me before; said he was glad I had come; he was in a scrape, and did not know what to do; asked me if I would assist; I told him I would do all that lay in my power. At this time, when I got aboard of the steamboat, Captain Metz had lowered his boat down to try to send a line to the canal boat; he did'nt effect it; he had to back his boat off again; he left his two men with the yawl boat alongside of the canal boat; he made a second attempt to get a hold of her and failed; the third time I told him to back his boat far enough off to get steerage way on her; at that trial we got near enough to run a line to the canal boat; they run a small line first from the Superior to the canal boat; I told Captain Metz that he had better run one of his best lines, that the boat would go down before he could get her to the shore, and that [the]

line would do to tow her by; after they got fast to her they started the steamboat, and she headed for Pennsylvania; I told Captain Metz it would not do to land the boat there on the muddy bottom; while we were talking I told Captain Metz, on account of the muddy shore, the boat would mud, and it would cost a great deal more to raise her than on the Jersey shore; while we were talking the boat sunk; it was near the channel, about six fathoms water, the hatches came off, and a great many of the light goods, and a piano among the rest, it was not very light though, they came out and drifted down the river; I went to Captain Metz, who was heading towards the Pennsylvania shore; I told Captain Metz that he would have the boat stopped; we'd shift the line; the line was then on the larboard quarter of the steamboat; he shifted it on to the starboard quarter, and brought the steamboat's head up the river; by keeping the line there, and propelling the boat, it brought her head towards the Jersey shore, the steamboat below Gloucester wharf; I told Captain Metz it would not do to land the boat there, as it was a fishery; they would sue him; Captain Metz was a good deal irritated; did not appear to know exactly what he was a doing; that's what I mean by being irritated; I went to Captain Metz, and told him not to be alarmed, we would land the boat above Glo'ster wharf; he slacked up the steamboat, we shifted the line midships and then we could steer the steamboat, run her up above Glo'ster wharf, left her in about 12 feet water, then low water; the steamboat left and went to Philadelphia; Captain Vanderslice was taken off by a batteau from Glo'ster point, some 15 or 20 minutes after the steamboat had struck the canal boat; the steamboat came down with a regular power on her; I could not see any difference; she was some 20 or 30 yards from the canal boat when she first began to slack her speed; I did not see her turn a wheel back; I was in the batteau then; she came fast on the stern of the canal boat; the water was foaming under her bow; she struck the stern of the canal boat within a foot of the centre; I jumped into the batteau because I thought the steamboat would run the canal boat down; I have told you Captain Metz appeared frightened; he was frightened considerable.

Question. Did he appear to have presence of mind? (Objected to.)

Answer. I think not.

Question. Can't you describe more particularly what he did about the steamboat?

Answer. He was running fore and aft, sometimes in the pilot-house and sometimes out; I don't know any thing else.

Question. Did you say any thing to Captain Metz about his going after the goods?

Answer. Yes, sir; he asked my advice about it, what he should do, and I told him that I would take the steamboat, were I in his place, and go down where the boats were picking up the goods, and with his yawl boat he might save a great many goods. He did not make any reply. Before he left he told me to go ashore, and go down the shore and get an inventory of what goods was landed, and

by whom. He said he would see me paid for that afternoon's work; that's all he said. The hatches went adrift down the river, and the oars and poles of the canal boat went likewise.

Question. In your opinion, what was the collision in the river which you have described owing to? (Objected to.)

Answer. If there was no machinery out of order on board the steamboat, it was caused by fright or carelessness on the captain of the steamboat's part. I did not hear any clamors of fishermen at the time the boat came towards the shore the first time. I did at one time that day, when the steam[boat] was towing her towards the shore after she was sunk on account of the steamboat's towing her in on the fishery; that was over half a mile from the spot where I first saw them after I first got on the wharf.

Question. When you first saw them approaching the Jersey shore, could a skilful man on board the steamboat have safely run the canal boat into the shore? (Objected to.)

Answer. Yes, sir.

Question. Have you any doubt about it?

Answer. I have not any doubt about it.

Question. In your opinion, which is the safest position in which to tow a boat in rough weather?

Answer. Alongside. I raised the canal boat after she had been sunk. I examined her. [This was in reply to the question "did you examine her?"] (Objected to.) The boat is an ordinary built canal boat, and in my opinion she is fit. She was fit to navigate the Delaware as low down as Delaware city, in any weather that's fit for any canal boat of her class; she is a large sized boat, with run boards and hatches; run boards are for roof for the deck; such boats generally go with two hands and a captain, and one of those hands is generally a driver, generally a boy.

Question. I mean when a canal boat is in tow; then how many is considered a competent number?

Answer. They generally, in such cases, leave the driver with the horses; on board of such boats as the Judge Royer, they leave their horses at the locks in the Chesapeake and Delaware canal.

Adjourned to Sept. 4th, 4 p. m.

Parties appear, Sept. 4th, 4 p. m.

Question. Will you answer that question a little more distinctly; when a vessel is in tow how many hands on the canal boat are deemed sufficient?

Answer. The captain and one hand. It is owing to what situation the boats are towed what the hands have to do; if they are alongside the spurs they must keep fender out; I believe that's all they have to do there; one person could do that; if they are astern there must be a man to steer, and some one to adjust the lines they tow them by; that's all I know of towing canal boats; I have been with Capt. Skellinger when he has been towing canal boats; I have never run on board of a canal boat; I raised the canal boat Judge Royer. This occurrence

took place about the middle of May, on a Friday forenoon; that was the day the boat was sunk; I began to raise her about 2 o'clock on Saturday, the next day; Capt. Vanderslice, Mr. James, and Mr. Jos'h Bolton, were with Vanderslice when he made the bargain with me to raise her; he made it on Saturday morning between 9 and 10 o'clock; he agreed to give me forty-five dollars to put her ashore, that the goods might be got out of her; I had her up on Saturday night; I obtained the apparatus to raise her from Philadelphia from Mr. French and Baker; five dollars a day was the cost of the apparatus; I gave that; I paid five dollars a day for two days; I returned the apparatus on Monday; I employed about 12 hands as near as I could state, to assist me to raise her; I paid some men one dollar and a half by the day, and some a dollar; I only paid them for one day; I could not exactly tell how much I paid them all; besides, there were sundry refreshments, eating and drinking, which I furnished at the time; I paid one dollar car hire from the loft to the steamboat for going and returning, half a dollar each way, and one dollar to haul it from Gloucester point to the place where I hauled the boat up and returned it. I being acquainted on board the steamboat they did not charge me any fare; the apparatus was a furniture car load, as much as a horse could haul, blocks and rigging; on Saturday night after I got the boat up, Mr. Josh. Boulton and Capt. Vanderslice together, employed me as a watchman to watch the boat and the cargo which was left in her; on Sunday morning they came down with the canal boat; Mr. Bolton and Capt. Vanderslice, without mast or derrick; Mr. Boulton said to me when he came down, that he wanted a derrick rigger; I asked him where his rigger and derrick was; he told me he had neither; I said to him, Mr. Boulton I have rigging on the shore there that I am bound to pay five dollars a day for, provided I use it. If I don't use it to-day; I shan't have to pay any thing for to-day. He then said he would have a derrick rigged. I went down to Glou'ster wharf, the ferry, got a spar, took the rigging and rigged the derrick. I told Mr. Bolton previous to that that I would not work for less than $5 00 that day, Sunday. He told me to go to work, rigged the derrick and helped to put the cargo out of the boat on Sunday. I think there was about 8 or 10 men assisting. I had nothing to do with paying them. We did not get all the cargo out that day. There were some heavy oil casks, molasses hhds; steel, iron and coffee left in her. That day, a Sunday, they made a contract with me to deliver the boat in Philada. for three dollars. I fetched her to Mr. to J. M. Bolton's wharf, the Judge Royer on Monday with the remainder of her cargo in her. There they took all out except the coffee, that I took back in the Judge Royer to Glo'ster point, because it was spoiled and was'nt fit to land on the wharves; Capt. Andw. Miller took that out to try to make manure of it. I don't know how it turned out. The part of the cargo which was taken out on Sunday Jos. Bolton took charge of; it was towed up on Monday. I acted as watchman Friday and Saturday night at $2 00 per night. My account against Capt. Vanderslice for raising the boat and getting the cargo out was in

the neighborhood of $60 00. The canal boat was damaged all over. On account of straining, being sunk, hauling her on the bottom some ¾ of a mile, and hauling her up on the gravelly shore. I did in connexion with another person, a canal boat builder, I don't know his name, make an estimate of the damage done to the boat; the amount of our estimate was between 250 and 280 dollars. Can't say exactly, as I have not got the estimate. The first thing, she wants a new set of hatches; they were lost; them would cost from 50 to 60 dollars. To make her so good as she was strong, she would need bilge streaks, streaks of plank or timber. They would cost from 40 to 50 dollars; such streaks as should be put in her. Her rudder was not damaged; her stern was damaged and her waist; her timbers were carried away, one of her bottom plank broken, and she needed a thorough caulking. I patched her up; I caulked her; put in this piece of plank that was broke in her bottom; repaired her stern; put the timbers round her waist; that was all I done to her. The amount of my bill against Capt. Vanderslice for repairs was between 40 and 50 dollars. She is now carrying lumber. I never knew Capt. Vanderslice until on this sinking occasion. Capt. Metz and I have always been on very good terms; there was no misunderstanding between us.

Cross examined by F. W. Hubbell, esqr., for the deft.

I have not been paid altogether for the work I have done, but I have an order on Jos. Bolton, accepted by him, which satisfies me. I was not paid by Vanderslice in cash, because he was too poor. I contracted with Capt. Vanderslice. The order I suppose is not paid, because Mr. Boulton had not the funds in hand. I do not expect to be paid out of the result of this suit; he is to collect freight from Capt. Vanderslice and pay me. The amount of the order I have got on Mr. Boulton is $30 00. Mr. Vanderslice is still in the Royer. When I first saw the steamboat and canal boat on the Jersey shore, and saw Capt. Metz was in a scrape with a canal boat, I meant that he was in difficulty. I saw him running off and on through the spy glass. He was after the canal boat; she had broke adrift; from what I could see then, I thought the canal boat was adrift. I do not know the reason why I did not say yesterday that she was adrift. I thought then, and I think now, that she was adrift. Capt. Metz was plying backwards and forwards to pick up this boat. It was rough on the river. It was rough. That did not enter into my contemplation when I said he had got into a scrape. That was in the morning. I did not see any other canal boat pass the Delaware while I was on the river. I was not on the river all day. The Judge Royer was not heavily laden; she had a load of light goods; the principal part was light goods. The steel was not light goods, the molasses was not light goods, the oil was not light goods. I think she might prudently have navigated the river in such a sea and wind as that. She had an anchor; she did not cast that out while I was aboard of her; she was not at anchor when I first saw her. I suppose the boy aboard

her was about 16 or 17; rather small for his age; looked old. When I got aboard of her, I saw water in her. I looked in the cabin and she was about half full. The fishery of which I warned Capt. Metz was just below Glo'ster point; runs up to Glo'ster wharf. No fishery above the wharf last season; not immediately above the wharf. There has been one until the last season; when I raised this vessel, she was on the bottom of the river. I dragged her ashore. I dragged her ashore by the line which the steamboat had attached to her. I took the line when I left the steamboat, made a small line fast to it, and made it fast ashore; that I did with my batteau. I took blocks and falls and a capstan to drag her ashore. The capstan was ashore. The line was not long enough to reach the capstan. I attached my block and falls to the line and thence to the capstan; the fall was about 70 fathom, and by attaching the blocks and fall got her ashore. I commenced working, that is, turning the capstan, between 1 and 2 o'clock, and finished between 6 and 7; we worked the capstan by men; we did not get her up high and dry; my contract was not that; my contract was to get the boat high enough to take the cargo out; at low water her bow was bare; I left her; I had stopped the leak when I brought her to town with the molasses, oil, coffee, and steel; the leak was a broken plank in her bow under her bottom forward; that had not been above the water line before she filled in any part; it was not above the water line before she met this disaster; it was on the starboard side of her keel, first plank above the garboard streak, which is the second plank from the keel; it was not knocked in, it was knocked fast, as if something had struck it endways, and one part had shot past the other, that is one part of the plank; the plank was broken; it was a sound plank; she leaked after I stopped that some, not in any great degree, and the leak I stopped was only a temporary stopping, and it may have leaked through that stopping; when I said the canal boat sunk, I meant she went down to the bottom. The reason why I know she went to the bottom, the line was slacked up from on board the steamboat, and shifted from her larboard to her starboard quarter; she was out of sight; it was daylight; the power of the steamboat dragged her on the bottom nearer to the shore; she was at high water from 80 to 100 yards from the shore, when the steamer left her, desisted from further efforts; the steamer was about in the same range as the canal boat; she towed her up against the tide to get her above the wharf, where she would be in shallow water; she got her above the wharf, and I took the rope ashore; that was all the steamer could do after she had sunk; the first effort the steamboat made to get a line aboard the canal boat she ran into her, as I have stated, ran into her stern; that knocked the canal boat ahead and the steamer astern; that is the time Captain Metz asked me to take the line; the second effort he ran across her bow; did'nt come near enough to throw a line aboard; her yawl was alongside the canal boat. The third effort he backed his boat well astern and came near enough to her when he was coming ahead to run a line with his yawl; she was near enough to the canal boat to have a line extend from her to the canal boat; there was

some sea all this time; that steamboat I suppose to be 150 or 160 feet long; it is not a difficult thing with a steamboat of that size to round to so as to measure the length of a line from an object; it could not have been done in any other way than that I advised, except by taking a very great circuit round; I had a very light batteau, and therefore I could not take a rope; when I took a rope ashore I was above the wharf, close to the shore; the injury to her stern was, it knocked her top plank of her stern in, and her deck, three planks of her deck was pushed on end; this was all above the water; Captain Vanderslice was standing on deck, and when the steamboat struck the canal boat, it sunk her down until the water was knee deep on her deck aft; her bow was up; when the pressure of the steamboat was off, her stern came up; when I first saw the canal boat and the steamboat on the Jersey shore, they were abreast of the wharf, going down. I did take an inventory of the things which floated out, and were recovered, and gave it to Mr. Jos. Bolton, with the names of the persons who had them; the piano was recovered; Mr. John Rice got that [from] the fisherman. When the captain was standing on the deck knee deep, she took a great deal of water into her cabin.

I expect to go next week to Texas as captain of a schooner up the Rio Grande as far as Matamoros, in Government employ; Mr. Arch'a McNeil owns the vessel; he lives in Philadelphia, at the corner of Washington and Swanson streets.

LEWIS M. BELL.

Sworn, examined, and subscribed at Philadelphia, September 4th, 1846, before

JOHN BINNS, *Commissioner.*

Depositions taken by consent before J. Burchard, U. S. commissioner, on the part of the libellants.

Present, C. W. Brooke, esq., counsel for the libellants, and F. W. Hubbell, esq., counsel for respondents, December 1st, 1846.

Joseph R. Boulton, a witness produced, sworn, and examined on the part of the libellants, deposes and says: I live at No. 400 north Tenth street, in the city of Philadelphia; I am a clerk in the employ of Alexander J. Catell; he is a commission and forwarding merchant; I was a general agent last May for any business that was put into my hands; I knew Captain Vanderslice; I have known him about 15 years; when in business on the Schuylkill a number of years ago, he used to bring coal to our wharf and take goods in return; he commanded a canal boat at that time; my acquaintance has continued more or less ever since; for the last five years I have not had any immediate intercourse with him, or loaded his boat, until this last spring; I have always understood that his character was good; as a boatman, prudent and trustworthy. (Objected to.)

Question. What do you know of his capacity as a boatman?

Answer. I have known him to receive goods and to deliver them

safely to their destination, or at least we have never had any evidence to the contrary; his bodily strength I believe is good, the evidence I have of that is his assisting in loading his boat; as to activity, he does not walk as lively as myself, or for a man of his age. I believe he possessed full physical power last spring. His intelligence is quite equal to a man of his standing, to that of the generality of boatmen. I knew the canal boat "Judge Royer;" she was a good substantial boat before this accident occurred, and fully competent to carry merchandise.

I went down to Greenwich point, on this side by land, and crossed the river to Glo'ster point. Shortly after my dinner, I went to my brother's counting-house as was my custom, James M. Boulton, and there heard that Capt. Vanderslice's boat had met with an accident, and had been sunk; I went down to know the particulars; Mr. James M. Boulton is in the commission and forwarding business; the Judge Royer had loaded at his wharf; I did not see the boat, she was too far under the water at that time; when I got to Glo'ster point I found that Mr. James, my brother's clerk, had been there; while crossing the river I spoke to the captain of the ferry boat, I did not know his name, but understood it was Müller or Miller, or some such name; he was a German. I asked him how it occurred; he replied that Captain Metz was coming down with a full head of steam, and in letting off the boat, there was so much headway that when the boat struck the wharf it was with such force as to stave in her bow; that the "Superior," or steamboat had such headway, that had he not backed or stopped his boat, they would have run foul of him, and most likely sunk him. The hands aboard of Captain Miller's boat corroborated the captain's statement. (Objected to.)

We did nothing that night; that afternoon, in the ferry-house, at Greenwich point, Mr. Wills, the landlord, (answer suspended.) I went down again the next morning with Mr. James, crossed the river, saw Captain Vanderslice, stayed there through the day, and assisted him in recovering his goods. That day was principally occupied in going down the river below Glo'ster point several miles, and picking up the goods; towards evening there were 7 or 8 hands employed; not more than three or four in the early part of the day; it stormed so that little could be done towards raising the boat; a bargain had been made in the early part of the day with Mr. Bell to raise the boat. He had procured ropes at the city, and towards night Mr. Bell's men and all the hands we could raise in the vicinity were engaged in drawing the boat ashore; we succeeded in getting her so far as to enable us to work at her at low water. The following day (Sunday,) I took a large canal boat down, and had a number of men, and were engaged all day in taking the goods from the Judge Royer into the canal boat; some time on Saturday there was a large number of hands, if my memory serves me right; those he paid were 7 or 8; others assisted without any thing being given; on Sunday there must have been ten or a dozen hands employed and paid; Captain Vanderslice paid them; I saw him pay them; I did not

know how much he paid them; from some he took a receipt; from others he did not; some I hired and paid on his account, for which he gave me the amount again; I could not say how much I had expended; I reported immediately to him; either he or I have some of the receipts; I think I have some memorandums in one of my books; that book is at my house; we did not get all the cargo out on Sunday; some of the hogsheads were too heavy to shift to the boat; after we got the cargo nearly out of her, we got the boat ashore, where she was dry after the tide run low ebb; she was sufficiently repaired to bring the remaining cargo up to my brother's wharf. My brother at that time was confined to his bed by serious indisposition; he has since deceased; the physicians came and forbid us giving him the slightest intimation of the occurrence. The cargo was landed when it came to the city; some of it that was perishable was sold; other parts were delivered to their proper owners. It was examined before delivery, and an inventory taken and the valuation placed upon them; when we could ascertain of whom the goods were purchased, we got the seller of the goods to examine and value them; when we could not do that, others were called in. The next day, or the Sunday following the occurrence, I had a farther conversation, the purport of which was about the same as that which had taken place previously. In coming to the wharf a skilful boatman will always round to against the tide; it is a very difficult matter to reach the wharf with a strong tide, to reach the desired point, the rapidity of the current being so great as to sweep them by, or put them against the wharf with such force as to do injury. It is customary to take two or three hands, two men and a boy, on board of a canal boat, down the river when in tow; seldom more than three, and very frequently not more than two; by two hands I mean the captain and one man; we call them all hands on board the boat, boy and all, for the boys are frequently equivalent to men. It is frequently the case that the captains send these boats with the towboats, and they themselves go down in the Clifton or Pioneer, and meet them at Delaware city. The hands on board the canal boats while in tow have nothing to do but to keep the boat steady by steering. When they are made fast along side the towboat, steering is not requisite.

Adjourned until to-morrow, 4 p. m., Dec. 2d, 1846.

Same counsel present, and examination proceeds.

I can state more particularly the amounts from a memorandum I have of some of the accounts I paid; I have no memoranda of all the accounts I paid; the reason I have *not* no memoranda of all the accounts I paid is, that Capt. Vanderslice would give me money, and the amounts I paid I reported to him forthwith. That memorandum shows that I paid $90 95; this was paid for catching the goods, the use of the boat, and towing the boat up and down, labor of carting goods, and drawing out the boat; I paid, the Monday following the occurrence, about $20, principally for labor; Capt. Vanderslice had paid the afternoon previous; I saw it done; he paid some of the men in part; I don't recollect the amount he paid them; there *was* several sums of $5 each,

but how much I cannot say; I do not recollect of having paid other moneys, unless it was for catching goods; I find a receipt, dated May 23d, for $2, for saving goods lost from boat "Judge Royer."

I was present when nearly all the valuation of the goods were made, and rendered assistance in making the same; all the goods that were saved were taken to my brother's store; the appraisements were made at that place.

Cross examined by Mr. Hubbell for respondents.

I went down as a mere volunteer; it was at the request of Capt. Vanderslice that I did all these things; all these goods were shipped on board of the canal boat by my brother's house; his head clerk, Edw'd G. James, had been down there; he did not employ me; Mr. James came down as a spectator only; I have every reason to believe it; he told me he had no control over the boat at all; that he had Capt. Vanderslice's receipt for the goods, which exonerated my brother from any responsibility; I say, upon my oath, that he did not request me to go down to take charge of the goods; he requested me on Saturday morning to go down with him, and it was then he told me my brother was not responsible; that what I did must be by direction of Capt. Vanderslice; I went down to do something, from a friendly feeling I had towards Capt. Vanderslice; he being an old acquaintance, and in difficulty, I thought I would render him what aid I could. I was a general agent at that time, and went down; I can't say that James requested me especially; he was going down, and he asked me to go along with him; I should have gone without his invitation; I had left my home with the intention of going, and, as he was going to ride down, he offered me a seat in his vehicle. That was not the first time I went down; I went down the Friday afternoon before; I found that Mr. James had been down the first time I went down; can't say what he did down there, for I did not see him; I heard he had been down at Glo'ster point. I do not know what he did the second time he went down; I left him at the ferry, the other side, at Glo'ster point; he did not take his carriage over; he left it on this side; I may have seen him once or twice during the hour that he remained there, or oftener; I cannot say that he was doing anything at that time; I was engaged in conversation with Mr. Vanderslice, and making a bargain with Mr. Bell for raising the boat. Mr. James did not interfere, as it would make my brother responsible; as he had taken advice from his counsel, and any interference on his part might have a tendency to implicate my brother; all this he told me at different intervals.

Question. Then you did something more than merely see Mr. James while down at Glo'ster point, while you were talking with Mr. Vanderslice; you now say that you conversed with him.

Answer. I was conversing with him at different intervals; he was in the act of walking about from the ferry house to opposite where the boat laid. It was in these conversations, and in the conversations while riding down, that he communicated the fact that he did not interfere,

lest it should implicate my brother's house, as I have stated before. I know that it was Capt. Miller from the circumstance of his having command of the boat, and from what I have heard since. I have also served a subpœna on him in this case. I have also served subpœnas in this case on other persons, on six or eight persons. I served the subpœnas at the request of Capt. Vanderslice. I was remunerated by the captain for the service of the subpœnas and other business; he gave me a $5 bill at the time he gave me the subpœnas to serve. I was attending to other business for him; I was doing writing for him of different kinds, and in relation to this suit; I do not expect any remuneration from him if he succeeds in this suit. I believe, in my depositions in chief, I have given the exact words that Capt. Miller used, as I should know if the deposition was read over to me; I do not recollect the names of any of the persons on board the boat; when those valuations were made of which I have spoken, I believe there was no one present on the part of the Steam Towboat company; I did not apply to the United States court for a commission of survey on damaged goods, nor do I know that any one else did; there was none of the surveyors of goods present; I called upon the sellers of the goods to make their surveys; I procured the attendance of the other persons who acted as surveyors; I got $30 for these services from Capt. Vanderslice; I am sure I got the money; the practice of rounding to is frequently done in the river Delaware and other places in a high sea; I have seen it done with the Pennsylvania, Capt. Skellinger; if I am not mistaken, I have also seen Capt. Metz do it.

Question. Was that when there was a high sea?

Answer. I suppose that I may say that it was.

Question. I don't wish to hear your suppositions; I want to know what was the fact; was there a high sea?

Answer. The question is so indefinite that I decline answering it; the words "high sea" is so indefinite, that what we term a high sea, captains of vessels would call a moderate one; I have seen this done when there was a high sea and the canal boat had a deck load; I have seen this in the boat that was transported to Pine st. wharf; I think it was the James Walter; a high deck boat is equivalent to a load on deck; I cannot say at present that I can designate any one instance in which a boat with a deck load, not an equivalent for a deck load in a high sea, was rounded to for the purpose of being cast off or landed in a high sea in the Delaware; I never charged my memory with any particular circumstance of the kind, not deeming it essential; my occupation at this time is that of a clerk with Alex. G. Cattell; I never went a voyage in a canal boat; I was educated and brought up a clerk in the house of Ridgeway and Livezey; I was eleven years in the transportation business myself; transportation and forwarding business; I ceased in that business in 1838; I have known Capt. Vanderslice for a number of years.

Question. You have said, sir, that five years ago, (in your examination in chief,) you used to load Vanderslice's boat on the Schuylkill?

Answer, I never said so, alluding to the particular period of five years ago.

Question. You have said that when in business on the Schuylkill, a number of years ago, Mr. Vanderslice used to bring coal to our wharf and take goods in return; did he then command the boat Judge Royer?

Answer. I don't recollect the name of the boat Capt. V. commanded when we were in business on the Schuylkill, a number of years ago; don't recollect whether her name was the Judge Royer or not; I don't recollect whether his boat, at that time, went out of the mouth of the Schuylkill or not; I did not load his boat last spring; it was loaded at my brother's wharf; I can't state, from my own knowledge, how Vanderslice has been employed for the last five years before last spring; I can't recollect when I first saw the Judge Royer; I saw her before last spring; I saw her the previous season; I saw her on the Delaware; I cannot recollect particularly the precise spot or what she was engaged in; I can't tell how often I have seen her.

Re-examined by Mr. Brooke.

I have received in all, for the services in the case, $35; I cannot tell how many days I have been engaged; it must have been at least 20 days; there *has* been numerous little instances where I have been engaged a half an hour or an hour at a time; I cannot recall any particular instance of a canal boat with a deck load in a high sea rounding to for the purpose of landing; the general practice under these circumstances is to round to against the tide; I mean in a rough sea with a deck load; I make no distinction between a boat with a deck load and a boat without one, particularly if she is a low-deck boat, such as the Judge Royer was or is.

Re-cross examined by Mr. Hubbell.

I cannot particularize any one instance of a canal boat with a deck load in a rough sea rounding to under such circumstances; I have seen Capt. Skellinger do the same thing within a month past; I cannot say the day, nor where the boat went to; I cannot tell whether it was at Cattell's wharf; I believe myself it was within the bounds of Philadelphia, or between Vine and South sts., or perhaps I am mistaken in saying between South and Vine; the boats generally come up with the flood tide and round to up in Kensington; I can't say on what days Capt. Skellinger takes his trips.

Question. Do you know, sir, of more than one instance, within the last month, of Captain Skellinger's rounding the boat to, having a deck load and having a rough sea?

Answer. I do not recollect any particular instance, as it is such a prevailing custom for the towboats to land the canal boats against the tide, that I have not charged my memory with any particular instance?

Question. Is there not danger, sir, in a high sea, in rounding to, of washing off the deck load?

Answer. I think not; for the boat takes such a circle as to prevent it.

JOS. R. BOLTON.

Taken, sworn, and subscribed, this 2d December, 1846, before me.

J. BURCHARD,
U. S. Commissioner.

Adjourned till to-morrow, at 4 o'clock, p. m.

1846, December 3d, parties met pursuant to adjournment. John P. Rice being produced, and sworn, and examined, on the part of the libellants, deposes and says: I am 53 years of age last April; my occupation is a fisherman; my fishery is the other side of Gloucester point. The first I saw of this accident of the Judge Royer, the steamboat had the canal boat in tow, fetching her across the river from Greenwich point; the name of the steamboat was the Superior; I can't tell exactly when it was, but it was somewhere about the middle of last May; I was on the shore waiting to take a low-water haul, and could not take it, on account of the steamboat fetching the canal boat there; I must have been 200 yards below Gloucester wharf, I guess. The steamboat towed the canal boat across the river, to within about a 100 or 150 yards of my shore; it is not exactly mine; I rent it. The steamboat left her, and turned and went up towards the town. The canal boat could not get ashore; the wind rather set her off again; she got out in the ebb tide; there are two tides there; at ebb, in the channel, it runs down, and near the shore it runs up. The cause of this is the wharf at Gloucester point; it forms an eddy tide at ebb tide. The steamboat cast the canal boat off; the hands aboard the canal boat poled as much as they could, but they could not manage her; they tried to pole her in. The steamboat came back after the canal boat was adrift, and she run below the canal boat, and, coming to the canal boat, she struck her stern and sunk her; she was coming up to get her in tow again, I expect; she did come up slow; I expect as slow as she could; she stopped her steam some. The wind blew, what I call, a gale up the river; I don't know that she stopped her steam any more than I *seen* it blowing off; I could not tell whether her wheels were stopped or not, for she was too far off from me then; I was on shore and she was out in the channel; I saw the steam blowing off as she was coming up to the canal boat. Well, I suppose, she run 100 or 200 yards below the canal boat; she might have been a 100 yards from the canal boat when she commenced blowing off steam. The canal boat began to sink right away after she was struck. The steamboat got her line again, and made fast, and started to tow her; then the canal boat went down stern foremost. There were persons went out from the shore to assist her; I went out myself, and nearly all my men with me; I did not go out till I saw the canal boat sink; I saw no one going out from the shore before I did; there might have been; I know Lewis Bell when I see him; I saw him on that day; I saw him ashore; I did not see him aboard of either the steam or canal boat; I told the captain of the steamboat to drag the canal boat

up above Gloucester wharf, out of my fishery; I told him this out in the river, alongside in my own boat; I did not get on board of either the canal or steam boats, nor any of my hands; I observed only a man and a boy on board of the canal boat; I believe they got on the steamboat while the canal boat was sinking; I don't know how they got on board; I was ashore at the time; when I got out of the steamboat she was towing the canal boat in; the canal boat was then sunk; there was no part of the canal boat visible. The captain of the steamboat told me to go and pick up some of the goods; I did so; I got about two miles away from my cabin, down along League island; I picked up some goods and took them ashore in my cabin. Captain V. came down and told me to take care of them; I took care of them until they came and took them away; I went out only once after goods; my eyesight is bad; I have been engaged in the fishing business ever since I was about 10 or 12 years old.

Question. So far as your observation has extended, what is the usual mode of coming to to the wharf?

Answer. When they come up with the tide, I generally see them round to. I have never known an instance of their coming to the wharf not with the tide. When the steamboat was coming towards the shore the first time, when she cast the canal boat off, nothing was said, to my knowledge, by any of the persons on the shore.

Cross examined.

I lost a haul by her coming there; that was very unpleasant; I did not hear any body say to the persons in the canal boat that they did not want them to come there; but we did not want them to come there; I did not hear any body say anything to them; my fishery is about a mile long; I was right about opposite the place where the canal boat was cast off.

JOHN P. RICE.

Taken, sworn, and subscribed this 3d day of December, 1846, before

J. BURCHARD,
U. S. commissioner.

Daniel Wills, being produced, sworn, and examined on the part of the libellants, deposes and says: I keep the hotel at the ferry, at the Point-house; I have followed the sea; I was five years an apprentice under Capt. Tatem, and first officer two years under Capt. Green; we sailed to the coast of Africa, West Indies, up the Mediterranean; have not been to sea since, I think, 1837; I recollect the occurrence of the accident of the Judge Royer; I think it was last May. At the time of the occurrence I was in the garden at work, back of the house; I heard a great hallooing towards the end of the wharf out in the river; I stepped up on to the fence, and looked down to the end of the wharf, and *seen* a canal boat suppose about 10 or 15 yards from the wharf, coming down with the tide, in tow of the Superior; they made an at-

tempt; I believe the hallooing was to get the lines cast off; the boy was trying to cast the line off, and the captain at the helm; the boat was so near the wharf, and coming so fast, that the boy left the line and run aft; the boat struck the wharf from four to six feet from the end of the wharf; she struck the wharf so hard that she knocked one of the logs right into the wharf; knocked both the captain and boy down on the deck; the captain fell over the cabin, I think he pitched clean over; the boy got up as quick as he possibly could, and run forward again and got a small line, and undertook to heave it ashore to two or three men that were standing on the wharf at the time; the boat struck the wharf so hard, it bounced her back so far from the wharf that the boy could not make the line reach; that is all I saw of the boat at the time; I went to work again, and came out of the garden in about an hour or an hour and a half afterwards; when I came out of the garden I saw the steamboat Superior on the opposite side of the river, right off Gloucester wharf, 300 or 400 yards off from the wharf, probably not so far off, with a line over her stern, and fast to a canal boat they said, which was all under water; when I saw the canal boat approaching the wharf at the Point-house, I saw about half the steamboat, the other half was behind the house; she was moving slowly down, the canal boat was about striking the wharf; she was coming down very fast; the tide setting down very strong, and the steamboat pulling at the same tide made her come pretty smart; I have always been used to, and when I have been towed up the river, of having a vessel always rounded to and coming to against the tide; I never knew an instance in which that practice was departed from; you can't fetch a vessel to in any other way with safety.

Question. In your opinion, if that practice had been followed by the captain of the Superior, would this canal boat have been brought to with safety?

Answer. If he had rounded to, and fetched her up right, he could have fetched her to without coiling a rope yarn; when in the winter of 1837 or 1838, Capt. Skellinger had the command of the steam towboat Delaware, and I was with him two months engaged in towing ships, and all sized vessels, from an oyster boat up, up and down the river, and never saw him put a vessel along side of the wharf in any other way than by rounding to against the tide; I don't know that I know any thing about Capt. Metz's skill and experience; but he showed less skill on that occasion than any captain I ever *seen* who undertook to be a captain of a boat; I know Lewis Bell; he used to run the Gloucester boat, Mr. Sykes's boat, from the Point to town and back; I don't know that Bell ever followed the seas.

Cross.

I keep the Point-house, Greenwich point. DANIEL WILLS.

Taken, sworn, and subscribed this 3d day of December, 1846, before J. BURCHARD,
U. S. commissioner.

Bowman Hendry, sworn: I reside at Glo'ster point; I am a practitioner of medicine; I recollect the day on which the disaster happened to the canal boat Judge Royer, perfectly; but the month, or day of the week, I cannot tell; it was last spring; I was sitting under Mr. Wills' piazza; he keeps the hotel at Glo'ster point; I have my office in that building; I saw that canal boat some distance down the river; at the time I first saw her, she was drifting out toward the Pennsylvania side, and apparently sinking; I made a remark to the gentlemen who were near me, that we had better go out and try to save the men who were in her; we then went upon the edge or bank of the river by the wharf, below the wharf; we then saw a steamboat heading towards her; the steamboat was going down the river; they call her the Superior; I told them, at that time, it was unnecessary for us to go out, as the steamboat would go over and take care of them; she was then some distance from the boat; the steamboat continued on her course and struck the canal boat on her stern, or upon the side near the stern; she sank then very fast. I was fearful we would not reach her in time to take the men off her. We rowed there, two men in the boat beside myself. We took the captain off; in a few minutes after that the hatch had raised, the water raised it, and the goods floated out as the boat sank. The steamboat was going down at the same rate of speed which boats usually go. I am not a judge of the rate of speed. I did not observe the steamboat slack her speed until she struck the boat. The blow was very sharp, the wind was high. By blow I mean the wind; the steamboat ran upon the side near the stern of the boat, striking her, apparently, with the full force with which she was going. She did not seem to slack her speed. I heard the boat when she struck the other; the steamboat when she struck the canal boat. I suppose I was distant about 400 yards. I heard the capt. of the canal boat halloo, but I could not distinguish what he said. The capt. of the canal boat was standing near the stern. I saw but one person on board the canal boat at that time. When I first noticed her, there were two persons on board; Louis Bell was on board the steamboat when I saw him. I did not see him on board the canal boat at all. I took off Capt. Vanderslice. The boat was then going down very fast; the stern was going down the fastest. The water was over the deck at this time about a foot or 18 (eighteen) inches; Capt. Vanderslice at that time was standing in the water. I recollect after we got there, the hands of the steamboat threw a line to the canal boat. I think Capt. Vanderslice fastened it to the bow of the boat. That was the only line I saw thrown from the steamboat to the canal boat. I did not see a boat put off from the steamboat to go to the canal boat. I saw a man that they said was captain of the steamboat. I saw him on the upper deck and on the lower. He appeared to be considerably frightened and excited, and hurried about the boat from one part to another.

Question. Did he seem to know what he was about? (Objected to.)

Answer. As I said before, the man appeared to be frightened and excited. When a man is frightened and excited I presume he has very

little presence of mind. The last sentence was in answer to the question "How in regard to his presence of mind?" (Question and answer both objected to.)

After we had the captain on board, we picked up some few things on the river and rowed to the Penn'a side, to which we were nearer than to the Jersey side. I saw the case containing a piano floating there; it came from the cabin, below the hatches—some call it the cabin and some the hold; one name is as good as the other. We reached the Penn'a shore after some trouble. After we were landed in the marsh there, we walked up the bank, and thence to Greenwich point. Walking up, I saw the steamboat towing the canal boat under water; that was the last I saw of them; they were then going toward Glo'ster point.

Cross examined by F. W. Hubbell, esq.

When I first saw the steamboat I was on the shore, below the wharf, at Glo'ster point.

Question. Did you then see Lewis Bell anywhere?

Answer. The steamboat was then too far away for me to distinguish any one. There were then two persons on board the canal boat. After I first went to the bank I went back and threw off my overcoat. I was on the piazza when the contact took place. The canal boat was going across the river with her stern to the Penn'a side when the collision took place. The bow of the steamboat was toward the Jersey shore when the contact took place. She struck the canal boat on the side which was up the river. The blow was on the side near the stern of the boat. I am quite sure of that. I saw the steamboat when she struck the canal boat. My distance was about 400 yards; from 3 to 400 yards. When I saw this I went to the shore and got a boat, and rowed to the canal boat.

Re-examined by C. W. Brooke, esq.

I am not able to tell exactly, but think I was on the piazza a very few minutes before I first observed the canal boat. I had been out riding. The piazza is elevated one part about a foot and some parts three feet above the level of the wharf. I was in the most elevated part. I did not see Bell at all that day until I saw him on board the steamboat.

BOWMAN HENDRY, *M. D.*

Sworn and subscribed October 16th, 1846, before
JOHN BINNS, *Com. U. S. D. C.*

John B. Powel, sworn. At this present time I am fireman on board one of the steamboats, and sometimes I steer on board the Robt. Wharton; and when she is off, on board the New Jersey. Capt. Andrew Miller commands the Robt. Wharton. I recollect the time of the circumstance of the collision with the canal boat, but not the day of the month, nor the month; it was in fishing time. I think the latter end

of May or beginning of June. The captain, helmsman, and me were standing, sitting on a bench inside of a small gate we have in a yard down there. The bell rung, I think, on the other side of the river for us to come over; I won't be sure. The captain says, "boys, let's go over." I started from where we were to go and open the damper, won't be certain whether it was to open the damper or look out; we always look out first to see whether any thing's coming. As I went by the pipe I looked up the river. I see the steamboat coming down, and then the helmsman of our boat was about undoing the line. I think he had one line undone, won't be positive. I turns round and says to the captain, (objected to,) "Captain or Andrew, here comes a steamboat; it won't do to start yet." Captain Miller was then coming from the bow of the boat to start our boat. As soon as I told him, he comes towards me; I was then in the stern part of the boat just aft of the cabin, where I could just see the steamboat. I could not see the canal boat at that time; when I cast my eyes around, after I told the captain the steamboat was coming, then I saw the canal boat coming behind the steamboat; captain left me and went back towards the starting bar, and I thought it was to start the boat, and I said, "Captain, hold on, for" says I, "if she misses the wharf, she will be into us." There was a great hallooing; there was a man in the pilot-house of the Superior, doing the hallooing. The steamboat I saw coming down was the Superior. He hallooed to somebody "let go that line," at that time I did not hear any body on board the canal boat halloo. The man in the pilot-house, they say he is the captain, got down; he was a hallooing to his own men or to the men in the canal boat, I can't say which, still kept crying out, "let go the line." The next word he got out, let go the line, down went the man and the boy in the canal boat. The boat struck them. The canal boat struck the wharf at Greenwich point, her stern struck first. When I first saw the steamboat she was coming so quick I could'nt tell the distance she was; should'nt say over twenty foot; I don't think she did slack her speed until he got out of the steerage-house, then she slacked a little. The steamboat came pretty near the wharf and then headed off. The canal boat had I suppose a line 35 or 40 feet long. She was towing, but not directly behind the steamboat at that time. I should not think the stern of the canal boat was over 15 feet from the wharf when the man left the steerage-house. The towing line was a little slack, it bowed a little, but not enough to touch the water. It was not bowed all the time I saw it. It was bowed just before it was cast loose. Just before the line was cast loose or broke, we were on the wharf, and could'nt tell whether it was cast loose or broke, the steamboat Superior started ahead. Just as the steamboat started ahead, the Superior, the canal boat struck the wharf. She near about struck the wharf as the line was cast loose or broke; whether the line was broke or cast loose from the Superior or the canal boat, I can't say. The steamboat was coming down pretty fast when I first saw her. She was coming down with the tide; just as she got so as I could see her plain, she slacked off a

little; when I first *seen* her, she was coming pretty fast. I mean we could see her plain when we could see the whole hull of the boat. When I could see her plain, she was not over 15 yards from me.

Question. From the state in which that towing line was, was it in your opinion possible for any man on board the canal boat to have cast it off? (Objected to.)

Answer. If the line had not have been jammed; if the line had been put on as we put it on *on* board the steamboat, a man on board the steamboat could have cast it off. We have in our line where we make fast to any thing, where we tow any thing, we have a loop; by putting the loop down, we've got to let the line go where we make a turn. If we are running a dark night, and we think we can't make the dock, we generally run alongside the wharf, and I am generally forwards, we have a line generally stationed at the timber head. It's my place to pass the line ashore, jump ashore, or put it down the best way I can on top of the post. The man that steers generally runs and takes a turn aboard the boat, there's no loop at that end. This man that's aboard the boat takes turns sufficient enough to slack off by degrees as the captain is working the boat into the dock by the engine; as soon as she gets into the dock and gets fair, he slacks the line up, and then I can take the loop off the post.

Adjourned to the 20th, 4 p. m.

October 20th, 4 p. m., parties present.

The witness, John D. Powel, proceeds in his examination in chief:

If the line was hooked with a bow hook on the canal boat, a man on board the canal boat could not have unhooked it. I don't know what you mean by a bow hook. If the hook was a hook to hook into an eye bolt, the line was not slack enough for a man to unhook it. After the canal boat struck, the steamboat Superior went down the river. I saw the place against which she struck on the wharf. I *see* a mark there. She rather started the logs. I mean the logs of the wharf. After the canal boat struck, she bounced back and drifted out into the river. The steamboat went down and rounded to, and she stood up the river for the canal boat. Before the steamboat came up to the canal boat, I went across, I did not see her come up to the canal boat. After I had went below, I come on deck, and then she had hitched on. We were then over on the Jersey shore. I next saw her towing her across the river, making for the Jersey shore. She towed her on below the wharf on the Jersey shore. The Robert Wharton was running all the time, and I could not see the Superior all the time. I think we made a trip ove. and back while she was at work at her, trying to get to her.

Cross examined by F. W. Hubbell, esq.

I think the wind was about east, southeast, or some where thereabouts; it's a good while ago, and I can't recollect. I did say the first day it was some other way, but I did'nt think at the time, when the

man asked me; I think I said it was about northeast, but since I come to study and think about it, I know it was the other way. The Robert Wharton was lying in dock when I first saw this; the tide was about half down; the tide was ebb tide; a whole boat can't go into the dock; you may say about half could go in; the deck of the Robert Wharton was a good deal below the wharf; I went aft; I could'nt tell how high I was; can't see over the wharf; I can't see over the wharf at half tide; the wharf was a foot above my head. If you have a mind to go to the other end of the boat, you can see; can't see over the wharf at half tide. When I first saw the Superior steamboat I went to go to the bow of the boat; captain says, "let us start;" I went to open the damper; at that time I was beyond the end of the wharf, and could see the steamboat coming down the river. The damper is fast to the pipe; it was somewhere about 3 or 4 feet beyond the end, about the centre of the boat. I say the steamboat was about 20 feet above from where I was when I first saw her; her wheels were going; I could'nt then see the wheels; she did not stop her wheels, but I think she slacked off, but she did not stop dead; I could not say when she slacked off; as she got pretty well towards me, her wheels were pretty near opposite me then; right off in the river against me. That was all the slacking off I saw. The canal boat was then about striking; I could see the stern part of her; I could not say, may be about half the Robert Wharton was in the dock; never measured the wharf; never measured the boat; I did not see the Superior when she was off the Powder wharf; I don't think she was as far off as half way when I saw her; I can't say how far it is from the Powder wharf to the Point wharf; it may be 140 or 150 or 200 yards distant; when I first saw the steamboat Superior she was not more than 25 feet above the corner of the Point-house wharf. I said, "captain, don't start; here comes a steamboat." I heard some man halloo from the steamboat to the boy who was trying to unhook the line; I could see the boy by that time; it was just before she struck. I say the canal boat was not above 20 feet above the wharf when I heard the man halloo, and saw the boy trying to unhook. I could not see the shore inside the canal boat, at that time; the wharf hid the shore from me; I could see the shore a piece up, inside the Powder wharf, betwixt the two wharves; I don't know who the towline belonged to; I don't know whether the towline was cast off or broke, about the time the canal boat struck; I could not have told if broke; it was all let go at once, but I could not tell if it broke or was cast loose; I was looking between the wharf and the boat; I was looking from my steamboat on board the canal boat; the line suddenly disappeared. I was looking at the canal boat until she struck, and then I looked round and the rope was gone; I was looking at the boy or man; the boy; and I did'nt see the line alongside of him; I could see the line next to the steamboat; at that time I could see 8 or 10 feet of it, yet I could not tell whether it was let loose or broke. I never served in a canal boat; I have been brought up to a good many branches of business; sometimes riding horses, riding races, sometimes farming,

sometimes fishing on the same shore, the Jersey shore; I fished in Savannah and Mobile. I was not brought up to none of these; I had pretty much my own head; never followed any particular branch of business. If the wind was so, east, it would blow a little off the Jersey shore there; I think it was a little east of southeast; I could not state the width of the wharf, I never measured it; that is, between the dock and the upper side of it; as I never measured it, I could not say if it's 10 feet wide; I could not say how wide it is; it may be more and it may be less. It's more than ten foot. If it was measured clear across, I think it's more than 20; there is a small dock between the upper corner of the upper wharf and the steamboat dock; I don't know how wide the small dock is; the wharf between the steamboat wharf and the small dock is not very wide; I should not like to say how wide it is; I should not like to say if it was 5, 10, or 15 feet; I am fireman aboard the boat, and sometimes steer. Andrew Muller is the captain. I live at Glo'ster; the length of time it takes to go across depends on the head of steam; sometimes she would go it in 5 or 10 minutes, and sometimes in 3 minutes; I expect in slack water; I don't know of any body I have been talking with about my testimony.

Re-examined by Mr. Brooke.

Captain Miller was coming down from the slip, coming aboard the boat, when I first saw the Superior; can't say whether he was on board the boat or not; he came forward to where I was; I don't know whether he had seen the Superior before I called his attention to her; can't say whether he made any remarks or not before I told him; I got up and left; he did'nt say any thing to me before I spoke.

his
JOHN D. ⋈ POWEL.
mark.

Sworn and subscribed October 20th, 1846, before
JOHN BINNES,
Comm'r dist. court.

Robert Clark Craig, a witness produced on the part of the libellants, being first duly sworn according to law, did depose and say as follows:

I have been in the boating business for sixteen years last fall; I ran from Hollidaysburg to Philadelphia, principally, and various other points; I ran from Havre de Grace to Baltimore, and from Havre de Grace to Philadelphia, and from Havre de Grace to Wilmington; I commenced running to Havre de Grace in 1841; I have run less or more ever since till last season; sometimes I ran steady from there, here, and sometimes I ran up the canal. The burthen of my boat, according to the present custom-house calculation, is 150 tons; I had various boats during that time; I was towed from Havre de Grace to Delaware city, from Havre de Grace to Chesapeake city, and then we towed with horses or teams through the canal to Delaware city; from

there the steamboat towed us to Philadelphia, or other places between.

Question. When a canal boat is in tow, what number of hands is considered a competent crew on board of the canal boat?

Answer. There are two ways of towing; one is in a canal with horses, and in a river with steamboat; in the canal we use three; three is considered the least number; we may have as many more as we see fit to keep; towing in the steamboat, two, and as many more as we see fit to keep; when we speak of two hands we mean a man and a boy, or two men; either is considered a crew, unless the boy be very small; if he should be less than 12 years of age; we carried only two; myself and another one; that is when we ran from Havre de Grace; when we ran in the canal we had three; as we generally go up the canal having two boys on board, but the third is of no use while towing with the steamboat; when in the canal towing with horses he is of use; we have to have him.

Question. In running down the river with an ebb tide in tow of the steamboat, what is the safest mode of coming to?

Answer. The only mode of coming to is, to round to with the bow to the current.

Question. When the canal boat is laden, what force, if any, has the wind upon her?

Answer. If she is heavy it will have but very little effect with her; if she is empty it has.

Question. How long have you known Capt. Vanderslice?

Answer. I have known him since the fall of 1830.

Question. What kind of a man is he, sir?

Answer. Well, as for that I could not tell; but so far as I know him he appeared to be a very industrious man.

Question. I mean so far as regards personal strength and activity?

Answer. As for that part, I am scarcely able to tell; he is growing old; and as to personal activity, he appears like others; he is somewhat in age.

Question. Did you ever see any deficiency in his capacity to take charge of a boat?

Answer. No, sir.

Question. Do you know Captain Metz?

Answer. Yes, sir.

Question. Has he ever towed your boat, and how often?

Answer. He has towed my boat; I don't know how often; as to the number of times I could not tell.

Question. What is his character and capacity as commander of a towboat?

Answer. Well, I could not say as regarding that particularly; as to his management, I never thought much of; the man, when everything went on fair, and [had] pleasant weather, everything went well; when difficulty, and storms, and trouble *arix*, he become *through other*, and

he could not scarcely tell what he was doing, or any person else, or yet what he was saying; well—

Question. State any instance of the kind that occurred under your own observation.

Answer. I was towed from here in the morning; I don't recollect the time or days by Capt. Metz; after he left here, I suppose half an hour, there come up a storm of rain, and blowed, and Captain Metz ran in between Reedy island, and there attempted to anchor, and anchored; after he had anchored his anchors dragged; we like to blowed ashore; steamboat and boats; he then hoisted the anchors, and put to to the river again through all the storm, with water dashing over the boats and breaking loose, and all the wind, and waves, and water, annoying Capt. Metz; then he came round on deck singing out to the captains of the boats to look out for their boats the best they could, or they would all go to the devil; well, then he made down the river, and at length in the course of 10 o'clock at night, he succeeded in making harbor; there was no harbor where he cast anchor; it was in the stream; there is a number of instances, you could not get them all down to night; I leave the city, perhaps on Friday; I reside in Newton Hamilton, Mifflin county, Pennsy'a.

Mr. F. W. Hubbell asks an adjournment to Friday evening, that he may have Capt. Metz present at the examination.

Mr. C. Wallace Brooke objects to the adjournment on the ground mentioned; this evening having been named by the counsel for the respondents, on yesterday morning, as a time when it would be convenient to take testimony in behalf of the libellants.

Mr. Hubbell, counsel for respondents, not knowing that the witness was to be examined to the disparagement of the character of Captain Metz, and having no opportunity of procuring the attendance of Capt. Metz:

The counsel for the libellants, Mr. Brooke, states also, that, until a few minutes before the examination of this evening commenced, he was not aware that the witness possessed any knowledge of the character of Capt. Metz.

Thereupon, the further examination of this witness adjourned to Friday evening, the 30th day of April, at 8 o'clock, by the examiner, when Mr. Hubbell and his client, Capt. Metz, being present, and Mr. Brooke not appearing, nor the witness, examiner adjourned sine die.

William Edler, a witness produced on the part of the libellants, being first duly sworn, according to law, did depose and say as follows:

I am in the boating business; have been following it something like 7 or 8 years; something like that; I can't just exactly tell; I have been running from Williamsport to Philadelphia, and Columbia, Harrisburg, and different places through the Tide-water and the Union canal; the tonnage of my boat is 48,720 pounds, (48,720.)

Question. When a canal boat is in tow of a steamboat, how many hands are necessary on board the canal boat?

Answer. Well, two would be sufficient; I consider two hands that understand boating.

Question. Would a man and a stout boy be considered two such hands?

Answer. Yes, sir, if the boy understands boating.

Question. When the canal boat is in tow with an ebb tide, what is the safest mode of coming to?

Answer. Coming agin the current.

Question. When the canal boat is loaded, has the wind much effect upon it?

Answer. Not so much so as when empty; when it is empty the wind drives it much farther than when it is loaded; when it is loaded the wind has not much effect upon it.

Question. If the wind is in opposition to the tide, has it force enough to check the power of the tide upon the boat?

Answer. Yes, sir, if the wind blows right strong; I mean when the boat is loaded.

Question. Have you ever been towed by Capt. Metz?

Answer. Yes, sir; I could not tell how often.

Question. What do you know of his capacity to manage a boat in time of trouble?

Answer. It seems always to me as though he got scared; he acted as though as if he had not his mind about him at the time.

Here Mr. Hubbell, for respondents, asks for an adjournment on the same grounds as in regard to the last witness.

To which Mr. Brooke objects, as before.

Witness says: I am going away from Philadelphia to Williamsport to-morrow morning, and I cannot tell if I shall return in two weeks from to-night, for I don't know what may turn up; it has been my regular business to make trips to Philadelphia; we stay 3 or 4 days here; sometimes 5 or 6 days.

Here the further examination of this witness adjourned to two weeks from to-morrow, Wednesday, the 28th April, 1847, by the examiner.

James Errickson, a witness produced on the part of the libellant, being first duly sworn according to law, did depose and say as follows: I have been in the business of towing for this eight or nine years altogether; I commanded a steam towboat called the steamboat Hudson; we go from Philadelphia and Richmond to Bordentown, thirty miles up the river.

Question. When a canal boat is in tow, how many hands are necessary on board the canal boat?

Answer. In our line of business most of the barges we have in tow are of one hundred tons; the crew that mans her, most of them, has a captain and a boy; in some of our barges, there is now and then one; some of them have run with just the captain alone for some two or three months; some of them last season ran in that way; they mostly have a boy, which they ought to have; they generally have a boy from 12 to 16, somewhere along there; that's the crew; that is the crew for

our barges, a 100-ton barge; I consider that a sufficient crew for these barges of ours, 100-ton barges; they have been running in that way for three years now; I believe we always come to in barges—is against the tide if I come down with the current; with the ebb tide, my mode of landing is always to round to; that is, to bring my barges head to, to the current, so that I can command them and come to as I like to the wharf; when the canal boat is loaded, the wind has not a great deal of influence upon it. (This was in answer to the question of Mr. Brooke, When the canal boat is loaded has the wind any influence upon it?)

Question. When the canal boat is attached to the towboat by a line hooked into a bow ring on board the canal boat, does it require much strength to cast the line off from the canal boat, when the line is slacked up?

(Objected to by F. W. Hubbell for respondents.)

Answer. Certainly not; it does not require much strength when the line is slacked up; when the steamboat is stopped or speedy stopped, then the line will slack itself naturally; the way the canal boat has, it will run up nearly to the steamboat; that is, from the distance we have of any common hawser we have from the stern.

Question. Are you acquainted with the Delaware river in the neighborhood of the Point-house?

Answer. Yes, sir.

Question. If you were going down the river in command of a towboat, having a single canal boat in tow, with an ebb tide, wind setting off the Jersey shore, and you wished to land the canal boat above the Point-house pier, what would be the way you would do it?

Answer. The way I am accustomed to landing in all respects a canal boat is by coming to, head to the current; in a case where I should see there was no difficulty in getting in after coming head to the current, then my way is to give the canal boat a little way with the steamboat, enough to steer the canal boat; at that time we cast her off for her to sheer up to the wharf, or to any place she wants to go to; in case it is a little difficult, thinking that the canal boat can't fetch the place or the pier where she is bound to go; in that way I take a line from the steamboat to the pier or wharf, whatever it may be, and hold the steamboat there until I land the canal boat; that has always been my way of landing; I never had but one accident happen to me in landing in that way; that one was in case of coming to in the same manner as before, at a new pier with the ebb tide; the accident happened at the new pier in the northern liberties; the pier was not finished then; there was one of the small ties which holds the pier together before they are finished, stands out beyond the pier, and being under water, in coming to, the canal boat came against the end of this tie, and in consequence of that she sprung a leak, and we cast the canal boat off at that time, and got her off from the others; we got her in about half way in the dock, half her length in the dock, when the after box filled; at that time she was in two sections.

Question. Are you acquainted with Captain Metz?

Answer. I am slightly acquainted with him; I am not much acquainted with Captain Metz; not a great deal.

Question. Do you know how long he has been running a towboat?

Answer. I don't know exactly, he has not been in that business long.

Mr. Hubbell says that he desires to have Captain Metz present on the cross examination, as reference is made to him in the examination in chief. Mr. Brooke replies that he cannot undertake to have the witness here for that purpose, although he will use his best exertions to produce him at any time when it will be convenient to prosecute the cross examination.

Edward G. James, a witness produced on the part of the libellants, being first duly sworn according to law, did depose and say as follows:

I was clerk to James M. Boulton on the 12th May last; I recollect the accident that occurred to the canal boat Judge Royer; I have no recollection of the day that the accident happened; I have not even charged my memory with the day of the month, although I have records in my own handwriting of the day of the month, so I suppose I must have made them at that time; after I heard of that occurrence, I went down the river the same day to the point, Gloucester point, I think it is; I did not ride down; I went down in the steamboat; a young man named A. Towers accompanied me; this boat was loaded from the house of Mr. Boulton; I helped [to] load her myself; at the point I saw, when I arrived, a part of the vessel; the hatches were above water, all that I could see; the captain came there about an hour after I had arrived there; he had been up to the city; the canal boat was sunk some distance from the beach, and also from the wharf; we did nothing that afternoon further than urging the captain to use all exertions in his power to get her out, and offering him all the assistance I could myself, and that of the men under my control; I returned to the city; next morning I went down at six o'clock, or perhaps a little earlier; Joseph Boulton went down with me; we rode down; on that day we had no conversation with any body of any importance, but I still urged the captain to do all he could, and advised him, and offered and did assist him as far as I could do; we crossed over in a ferry-boat; I went down on Sunday with two men to assist the captain, giving them various implements to get the stuff out of the boat; I had a conversation with the captain of the ferry-boat in which I came up to the city on Sunday; I did'nt know the name of the ferry-boat; this is the ferry-boat which is in the habit of passing from Kaighn's point to Gloucester point; I mean by Kaighn's point the point immediately opposite to Gloucester point; I mean on this side the river; I should judge the captain of that boat to be a German; I go further, and state that I believe the boat I came up in from Gloucester point to be the same boat I crossed over in from the point I call Kaighn's point, not knowing to the contrary; I mean the boat I crossed over in the day; I rode down on this side; I can't say positively whether she was then in charge of the same captain; as far as recollection goes I am willing to swear that the same man was on board both times I

was in the boat; nothing called my attention particularly to the man; I have not a doubt I should be able to recognise the same man if I were to see him again; there was no acquaintance with me on board the boat on Sunday; I mean not at the time of the conversation; the conversation was a very general one in reference to the disaster; he said he saw the accident; I think he said he was at the wharf on that side of the river where the accident occurred; he said that the towboat managed badly, or he might have said managed incompetently. (Objected to by F. W. Hubbell, esq., for respondents.)

Question by C. W. Brooke, esq., for libellant. Did he say any thing about her headway?

(Objected to by F. W. Hubbell, esq., for respondents.)

Answer. He said she was cast off with the tide, and her headway was so great as to cause her to strike with so much violence against the wharf; the condition was, as I understood it, *was* to press the earth on the wood work back half an inch; so I understood it; and he said also that he was able; that he could have saved the boat, but he did not suppose that he had any right, or that he was competent to interfere; he said farther, that he supposed a steamboat was competent to manage her, and he supposed that she would be brought safely into dock or wharf; he said something about this side of the wharf that forms the dock being the proper place to run her into; he said he was not afraid of being able to convince any jury that the captain of the towboat had acted badly; he said something about the laws of nature; also, that the tide being with him, he ought to have brought his boat about, and he was very earnest and very indignant when he said so, and he added something else, too, that he supposed that the captain of the towboat was Skellinger and not Metz, and this astonished him at the time, because he knew that Captain Skellinger was a good boatman.

Mr. Hubbell declines a cross examination.

E. G. JAMES.

Sworn to and subscribed this ninth day of December, A. D. 1846, before me.

CHAUNCEY BULKLEY,
Alderman.

Examination of witnesses resumed, Friday, December 11th, 1846.

Adam T. Davis, a witness produced on the part of the libellants, being first duly sworn according to law, did depose and say as follows:

Last May I was a boat-builder; was carrying it on then; have followed it in the neighborhood of 14 years; never followed any thing else till since the first of June. I know the canal boat Judge Royer; I took an estimate of the work, thinking I could get the job; the canal boat belonging to Mr. Vanderslice sunken by the steamboat and damaged; I have known the canal boat Judge Royer about four years; I made an estimate the 27th last May; at that time the boat lay at

Gloucester point at the wharf, upper side. In fact, she was strained all over; the hatches were gone, her bows stove in, the plank and timber on her bows, just aft the bulk-head, she had bursted open, I guess an inch and a half; part of her plank shear gone, and a good part of her waist knocked in; forward hatch [and] small hatch gone, and one of her stern plank bursted in, and her rudder bolt broken; cabin windows and fixtures about it all carried away, and her cabin destroyed; one of her beams was broken, and there were either three or four carlines *were* gone, and she was completely strained all over, so that the oakum was a sticking out of her; that was on account of her being strained; the bilge seam was opened about three quarters of an inch; I should take it to be, at least; if I am not mistaken, the top part of her stern was carried away; it was out of place, which is the same thing; her planks and timbers appeared to be perfectly sound, fit for repairing; I have walked about her and on her decks before the accident, and have known the boat for four years, and when I saw her she looked very nice. One hundred and seventy-nine dollars and twenty-five cents was the estimate I made of what it would cost to repair her and put her in running order. That is what I agreed to do it for, but I did not get it notwithstanding.

The items of cost would be the following:

Hatches	$55 00
Bolts and irons	9 50
Plank and stern	5 50
Cabin windows	2 50
Rudder iron	1 00
Bulk head	5 00
Bilge kelsons	37 25
Caulking	35 75
Timbers and plank	4 50
Beams	5 00
Tiller	1 75
Carlines	5 00

Question by Mr. Brooke. After all these repairs had been done to the boat, would she have been in as good a condition as she was before she received this damage? (Objected to by F. W. Hubbell for respondents.)

Answer. No sir, she could not be. You see, she was bursted, and the bolts drawn from the beams, and she spread open, and a bolt put across her with a rivet in it, in that condition for to stay there. If you were to take that bolt away she would spread apart. She had not that bolt there before. I don't know that it is there now. That is what we contracted to do if we had got the job.

Question. Could she have been made as tight and strong as she was before she received the damage spoken of? (Objected to by F. W. Hubbell, esq., for respondents.)

Answer. She could by only putting about $200 more expense on her. It would have been necessary to take up her deck plank; take

out the knees and beams; and draw her to, and set these beams down again, if they would have done, and the knees, if they would have done; the deck plank would not have done any how to put down again; the ripping up and tearing, they would not do; we never put down deck plank again unless a man is poor, and cannot afford otherwise; that is pretty much all I can say now. I don't know anything more about it. It is very seldom you can make as good a job with old beams and knees as with new; you can't get them to work again very handily; they are old, and drawing the spikes and bolts out of them generally spoil them or weaken them; it is apt to split the ends; there is not more than one in a dozen you can get to work after you draw out the spikes and bolts; I would not have the old beams in, any how, if it was my boat; these knees and beams were sound, any more than the bolts being drawn, and spikes would weaken them; it is not a customary thing to put them in.

Being cross examined by F. W. Hubbell, esq., witness says: Bilge keelsons are let in the bilge to stiffen the boat. When I carried on work last May, it was in Vienna street, Kensington; I know all the shipbuilders there that you can mention; I know Byerly, Teese, John Vaughan, Robert Linn, John Hamet; I served the last part of my time with Byerly. There were two beams broken off in the middle about midships—I mean deck beams; I would not have had to take up the deck to repair that; we would have gone into the hold to do that; when I saw the boat she had only some coffee in her, and not any barrels of hardware aboard; she was in the water; nothing had been done to her; they had stopped the leaks, and she was prepared to go off somewhere to be repaired; she was lying at Bolton's wharf; I afterwards saw her down at Gloucester point, where they took her to get the coffee out of her; when she was lying at Bolton's wharf I was not on board of her, nor do I *not* know how they stopped the leak, nor could I say on my oath that she was the boat, only as they told me it was she; I looked into her hold, and I saw the coffee there all loose, lying scattered about; I did not see any water in her hold at that time, but before she had her load in I was on her; I mean, what she had on board before she was sunk. I was on board about six days after I saw her at Bolton's wharf, at Gloucester point, where I saw her in the situation I have described in my examination in chief. As I saw her at Gloucester point the tide had left her; I did not see her floating, but I *knowed* by the way she lay that the tide would float her at high water; yes, sir, a vessel would float with her garboard seam open three-quarters of an inch; I could make them float with it open an inch and a half, if the plank were thick enough; her garboard streak open three-quarters of an inch, and no oakum in it, she would sink certainly; I was down looking to see how she was bursted, and I saw the bolts out of the knee on the starboard side—the side she was bursted in; the whole side was drawn out altogether; the bolts were out an inch and a half the inside plank; the outside plank and bolts had parted all from the knee an inch and a half; the streak that was opened an inch and a half was on deck;

she was spread open on deck an inch and a half, but when it got down to the bilge, it might not have been more than a half nor more than a quarter, and may be not one-eighth of an inch; that is the way I seen her down there; when I saw her up here at Bolton's wharf I was not on board of her, and did not see the condition in which she was; 13 feet 6 inches was her breadth of beam; the length I could not say within five or six feet, say from 58 to 70; she is accounted one of the new boats; the old boats belong to companies, and were about 58 feet long. The York boats have been built within 10 years; they are higher, and have hatches on them; they are made for the little rough weather in the Delaware. I knew she had been repaired, but I could not say she had been built on; I could see she had had work done to her since she was built; she had floor timbers and two feetlocks and stanchions; her deck planks were of white pine; her outer planks were white oak, perhaps some black oak; we put white oak; she had a kelson, I think white pine; they are better than oak for a boat of that kind; her futtlocks looked like white oak, but they might have been other wood, but we are not particular; if we find wood that fits, we put it in provided it is hard wood.

ADAM T. DAVIS.

Sworn to and subscribed this eleventh day of December, A. D. 1846, before me.

CHAUNCEY BULKLEY, *Alderman.*

CITY OF PHILADELPHIA, *ss:*

I hereby certify the foregoing depositions were duly made and taken down by me in my proper handwriting; that the several deponents were first duly sworn or affirmed according to law; that C. Wallace Brooke, esq., was present on behalf of libellant, and Ferd. W. Hubbell, esq., was present on behalf of respondents; and that the said deponents subscribed the said several depositions in my presence.

In testimony whereof I have hereunto set my hand and seal, at Philadelphia, on this twenty-fourth day of September, A. D. 1847.

CHAUNCEY BULKLEY, [SEAL.]
Alderman.

Fees of aldermen, $9, paid. C. B , alderman.

John Buehler, a witness sworn and examined on the part of the libellant, deposes and says: I am in the hardware business in this city; in April, 1846, I sold a bill of hardware to Mr. Bowman; he lives at Berwick, Columbia co., Pa.; the goods from my store were, I think, collected by the house of Jordon & Brothers; the bill marked A is our bill; it is in the handwriting of our book-keeper, John A. Neff; I compared the bill with the book last May; can't recollect who sold the goods; some goods were lost after they came to the warehouse, a copy of which is on the bill A; that remark refers to the goods received in the damaged state; the box was broken open, without a lid when it was received at the warehouse; that explains what I mean; I speak of Js. M. Bolton's

warehouse on the wharf; I know it by the name of Bolton's warehouse; I was at Bolton's warehouse on the wharf after these goods were received; it was in the forenoon I got down; when they got there I can't tell; in the same week, it's a year ago, I recollect to have heard of the accident to the Judge Reyer; I would like to know, in giving that answer, if the accident did not occur on Saturday?

Mr. Brooks says, "go upon the supposition that it did occur on a Saturday."

Then I opened and examined the goods on Monday in the forenoon. On the following Monday, in the forenoon, on that examination, I discovered that the goods mentioned in schedule B (now shown to the witness) were damaged.

Question. What else did you discover on that examination?

Answer. I discovered that the goods were wet, soaking wet, as we call it, and in a rusty state; I did not take any note of the particular articles except those which were lost, and they were gone.

Question. What was the average damage?

Answer. They were appraised.

Question. What, in your judgment, was the average damage done to the hardware goods which were saved?

Answer. I should say about 33 per cent.

Question. Did you make a statement at the time of the damage, verbal or otherwise?

Answer. Not to my recollection.

Question. By whom were the goods packed when they left your store?

Answer. I could not tell, sir.

Question. Have you any means of telling by whom they were sold?

Answer. I cannot say that I have.

The paper A is a transcript from our sales book, yet the bill is.

Cross examined by F. W. Hubbell, esq.

I am not anywise interested in this suit; no farther than a customer, on account of whose interest I considered it my duty to examine the goods, and give them such attention as they required.

Question. Have you been paid for those goods?

Answer. I can't answer positive, yet I think we have; after I examined those goods in a damaged state, they were packed by our porter, John Guliver, and re-marked "C. D. Bowman, Berwick;" I think the room we were in was the third story of the warehouse. The damaged, as well as the sound, were packed in this way; there was not any insurance on those goods that I know of; to my knowledge we made no remission of price; I do not know by what boat they were shipped a second time to their destination; I do not know who made the arrangement for those goods on their first trip by the Judge Reyer; I have not any knowledge that those goods were sold by Mr. Bowman at any diminished price; I measured the damage at 33 per cent. from the ap-

pearance of the goods, the state they were in, not knowing how much worse they would be by the time Mr. Bowman would receive them; they were opened at the warehouse, and wiped off and repapered to some degree; they were not repapered to every degree that was necessary; our time and place would not afford the convenience; *our time and the place;* it was during the busy season of the year; might also say it was voluntary on our part for doing what we did; brushes, I believe, are much injured by being in the water, and paint brushes so much so as to spoil the sale of them; when I first saw the box the lid was broken off; slates are much injured by being in the water, for sale; the frames would be much soiled; they were much soiled; there should be another small package of Mr. Bowman's.

Re-examination by Mr. Brooke.

This bill C against Mr. Bowman is also copied from our sale book; I cannot say where these goods were sent; I could tell upon examination; the articles in this bill C are lost; this bill of goods D was sold by us to J. H. Fowler; it is a copy from our sales book; I cannot tell the name of the person by whom they were sold, nor by whom they were packed; I cannot tell when they were sent without referring to our delivery book, but think they were collected by Jordon & Brother; I saw those goods in packages on the wharf after the Judge Royer was brought up; I examined them, and found them in a damaged state and rusty; as near as I can recollect I should say the damage done to these goods was 33⅓ as in the other case; Mr. Roberts, of the firm of Conrad & Roberts, was not with me when I examined those goods; I don't know whether he examined them; I do not [know] whether Mr. Dilworth or Mr. Branson was there.

Cross examined by F. W. Hubbell, esqr.

I know according——

Question. Do you know of your own knowledge that the items in the list B were on board the Judge Royer at the time of the accident? I know that they were packed according to our entries, and in packages for Mr. Bowman. I did not make those entries. I do not know that the goods in the list C were on board the Judge Royer at the time of the accident; that gentleman's question rather tied me up, as he referred to the Judge Royer, to say that they were put on board the Judge Royer, which I cannot prove, as we did not ship them; this would apply to all the goods. I do not know that any of the goods were on board the Judge Royer of my own knowledge; in my estimate of 33 per cent. I took into consideration that I did not know how much they might be damaged when they reached Mr. Bowman. If I had had time, or some person had been employed who had time, the progress of decay might have been arrested from further damage, by carefully cleansing and re-papering them. At the time I left them I estimated the damage at 33⅓ per cent.; I did not take into consideration I could

not tell what the state of damage would be when they reached Mr. Bowman.

Re-examined by Mr. Brooke.

Question. What would be the expense of cleansing, repapering, and repacking those goods so as to arrest the progress of decay?

Answer. I should estimate C. B. Bowman's goods at twenty-five dollars, and Mr. Fowler's at fifteen.

JOHN BUEHLER.

Sworn and subscribed July 7th, 1847, before
JOHN BINNS, *Com'r U. S. court.*

Peter Rovoudt, a witness sworn and examined on the part of the libellant. I am in the crockery business; I sold a bill of goods the latter part of the spring 1846, more than a year ago, to G. H. Fowler; I don't know when the goods were sent from our store; they were I think collected by Mr. John Harding, in the old granite store in Front st., near Chest.; I don't know what he did with them. The next time I saw them was on J. M. Bolton's wharf; I understood they came from a boat which was sunk down the river. (Objected to.)

The man who served a subpœna on me this morning was on the wharf, and represented himself as the captain or owner of the boat; that is the man, (pointing to Capt. Vanderslice;) we had the goods opened on the wharf by a couple of our hands; I was present the whole time they were packing and repacking them; I staid for the purpose of repacking and remarking them; they are a kind of goods that fresh water won't injure much; there were a few articles, such as safety lamps, which were ruined; they were good for nothing; there was a small quantity of breakage, and we furnished some materials, dry straw, for re-packing; the amount of damage was some three or four dollars; I made a statement of damages and gave it to Mr. Harding; that account I believe to be conscientiously correct.

PETER ROVOUDT.

Sworn and subscribed July 7th, 1847, before
JOHN BINNS, *U. S. comm'r.*

James F. Kirkpatrick, sworn and examined for the libellant. I am in the hide and leather business; on the 24th April, 1846, I sold to Wm. Bird sixty-two Spanish hides, weighing 1646 pounds; I think all I have in my hand is a copy from the day book, day and date, that I sold Wm. Bird 62 Spanish hides, 1646 lbs., at 11 cents, amounting to $186\frac{1}{100}$. (It is objected that the above is all stated from a memoranda.) I sold them myself; I think I did not make the entry in the day book; I think my partner made them, Thos. Kirkpatrick; they were sent to Bolton's; it was in the neighborhood of three or four weeks after we sent them that I again saw them; I saw part of them on the wharf;

they were spread about the wharves there drying; they were wet, in a damaged state; I think there were 32 of them in that damaged state; the hides were dried there by the Messrs. Boltons, and Mr. Bird was in the city about that time; those 32 hides we had hauled up to our store, and re-weighed there; they had lost considerable in weight, because they were salted hides, and the salt had soaked out of them, being in the water some time; we at that time sold Mr. Bird 18 more hides in connexion with the 32 he had there, and sent those hides out to the Reading depôt, which constituted 50 to be sent to Pottsville for Mr. Bird, he living in Catawissa, Columbia co.; I think I was called on to appraise those 32 hides; at all events, I went down and looked at them; if my memory serves me right I valued them at 7 cents, being a loss of 4 cents on account of the damage and wet; it injures hides very materially by being wet, more so than any other goods; I have been in this business 25 years.

Cross examined by F. W. Hubbell, esq.

Those hides were thoroughly dried when they were sent to the Reading depôt; that does not constitute them a sound and merchantable hide by their being dry; Mr. Bird's occupation was a tanner; he purchased these for his own use; my opinion is, they would not turn out a sound article, as they would have done if they had not been wet; I did not see any leather that was manufactured from these hides; leather manufactured from those hides would not take so fine a grain, and be apt to go into holes; I have sold hides that have been wet, and in a damaged state, as low as 4 cents a pound, fit for no other purpose than to make cowskin whips; I do not know that the leather made from these hides was of a coarser grain, or went into holes; I should think it very likely that hides which had lain 24 hours in fresh water, and taken out and immediately dried, would be very apt the grain to run, and to go into holes; there may be instances that it may turn out to be a good hide, but it is more than likely it wouldn't, in my opinion; I can't say how it turned out in this instance; I never seen the leather in this case after it was tanned.

JAMES T. KIRKPATRICK.

Sworn and subscribed July 7th, 1847, before

JOHN BINNS,
U. S. Comm'r.

J. Irwin Sterrett, sworn and examined on the part of the libellant. I am a clerk in Mr. Hartshorne's store; he is a commission merchant; on the 5th of May, 1846, the goods mentioned in the bill E were sold by him to F. W. Gross, who lives at Harrisburg; that bill is in the handwriting of Tho. Trotter, who was formerly a clerk of Mr. Hartshorn; I was in Mr. Hartshorn's employ in May, 1846; I have not compared this bill with the sales book, but I have with a memoranda

taken from the sales book; I was in the store when those goods were sold; I have no recollection of the items independent of those memoranda; they were packed where they were manufactured, at the works; we received them ready packed, and sent them to Bolton's; I next saw them after they were damaged, taken out of the vessel; one package is not mentioned in this bill that is on the sales book, a box of phials; when I saw them after the damage, I did not see all the articles mentioned in this bill; there were two boxes of 1 oz. phials; 2 boxes of 2 oz. phials; one box of window glass 8 by 10; 25 lbs. tartaric acid; 30 lbs. of chrome yellow; 10 lbs. of imperial green; 7 lbs. of ground verdegris; 14 lbs. of putty; those were all missing; the goods that were left were damaged; I examined them; I took each article separately; Spanish brown was damaged 50 per cent.; putty, 25 per cent.; one box of 1 oz. phials, 5 gross, 10 per cent.; one box 5 gross 1 oz. inks, or ink phials, 10 per cent.; one box 5 gross 2 oz. inks, 10 per cent.; 19 boxes window glass, 5 per cent.; the boxes which formerly contained the chrome yellow and tartaric acid were there, but there was nothing in them; they are soluble in water; the phials and glass were packed in straw and hay, and, when wet, it is with great difficulty the phials can be cleansed, and the window glass, unless taken out very soon, will stain and spoil very much; I did nothing to these goods but examine them; did not repack them; we reshipped them for the same destination.

Cross examined by F. W. Hubbell, esq.

The window glass was not stained when I looked at it; I can't say what it would have cost to have repacked it; if it had been carefully taken out and repacked, that would have prevented it from becoming stained; the phials were dirty; I had seen them before they were shipped; they were not dirty then; the only damage they would suffer would be the necessity of cleansing them, which I think would cost 10 per cent. of their value; I have some experience on the subject; I am a druggist; we would not use a phial which had been used ten times, except for the same article; I am now selling phials for Mr. Hartshorn; we have the agency for Whitney's glass-works in Gloucester co., New Jersey; I have no knowledge of my own that these missing packages were in this vessel, and we have a receipt from Mr. Bolton; I did not see them in the canal boat, but on the wharf, before they went over; a box of glass phials will weigh 70 lbs.; window glass is not so heavy; none of them will float; they will all sink; I saw the putty on the wharf, and examined it in the lower story, and the other goods in the 2d or 3d story; I have no knowledge what other goods may have been saved; I have no knowledge what other goods there were saved, except these; [these] were all I saw, and what I was told [of]; the head of the putty barrel was broken in; good deal of wet straw mixed with it, and, on my weighing it, I found it 14 lbs. short of its original weight.

J. IRWIN STERETT.

Sworn and subscribed July 7th, 1847, before

JOHN BINNS,
U. S. Com'r.

Loudon S. Caiel, a witness sworn and examined for the libellant, deposes and says:

Adjourned to Tuesday, July 13th, 11 a. m.

I am a piano forte manufacturer, No. 211 north Front street; I sold a piano forte to Edwd. Miller about the 1st May, 1846; it was in the early part of May. Mr. Miller lives at Berwick, Columbia county; I believe that was the direction on the package; two hundred and twenty-five dollars he paid us for it. I went down with it in a wagon to Mr. Bolton's wharf; I do not know what boat it was put aboard; I never sold him but the one piano. The next time I saw the piano was in Jersey, about a mile or a mile and a half below Gloucester point; it was in a house; the box had been broken open, and it had become wet. I took [it] up to the city, and kept it till it got dry, and then repaired it; I suppose the damage was $50. If it had been my own I would not have had it so damaged for $50. We repaired it, and sent it again to Mr. Bolton's, and Mr. Miller received it. Our bill for repairing it was $30; Mr. Bolton brought it up in his car free of expense to us, and to Mr. Miller too, I suppose; Mr. Miller paid me the $30; I should not think the piano was as good as it was before.

Cross examined by F. W. Hubbell, esq.

It is less valuable because it became damaged by water. We can't make as good a job of it if the veneers or other glueing the water get at; there's no chance of repairing that; I saw some veneering come off, and put some on myself. For instance, the water runs under the veneering; that rots the glue, and it becomes loose. The hammers were damaged; some of them the water got into the action, and some of the leathers had to be taken off. We repaired those that we could repair; but we did'nt, could'nt, make as good and neat a job of it as we could in the beginning.

LOUDON S. CAIEL.

Sworn and subscribed, July 7th, 1847, before

JOHN BINNS,
U. S. Commissioner.

A. John Binns, commissioner, July 7th, 1847.

PHILADELPHIA, *April 21st*, 1846.

Mr. C. B. Bowman bought of Mr. Buehler and Bro.

½ dozen hay forks, 4 50 - - - - -	2 25
13½ lbs. fry pans, 9 - - - - - -	1 40

6	kegs of spikes, 4			24 00
½	bu. shoe pegs, 2 50			1 25
3	cross-cut saws, 2 25			6 75
1	dozen axes			10 50
1	" bed cords, 3 and 3 50			6 50
¼	" horse brushes, 3			75
1	" trowels, 9			2 25
1	" slates, 88, 1			94
3	pairs tongs and shovel, 75			2 25
3	" steelyards, 1			3 00
½	dozen spittoons, 3			1 50
½	" shoe hammers, 3			1 50
½	" mouse traps, 1			50
12	pounds oil stone, 10			1 20
½	dozen hand saws, 9			2 25
1	single plane, smooth, 87; jack, 88; and fore, 1 25		3 00	
1	1 double do., 1 25; do., 1 38; do., 2		4 63	
			7 63	
	20 per cent.		1 52	
				6 11
3	dozen Buehler's glass, 10			30 00
1	" " corn			13 00
½	" wood saws, 6			2 00
¼	" sweeping brushes, 4 50, 6		5 25	
¼	" paint " 4		1 00	
¼	" " " 5		2 50	
¼	" " Ga. " 4 and 2 50		1 63	
¼	" dusting " 2 50		62	
			11 00	
	15 per cent.		1 65	
				9 35
2	bolts, 50			1 00
25	papers tacks, 4			1 00
15	" " 4			60
10	" " 4½			45
5	" " 7, 9			80
5	" sprigs, 10, 12, 16			1 92
1	dozen butts, 72, 83			1 55
1	" meayer, 1 67 and 1 33			3 00
7	pr. parliaments, 18			1 25
1	dozen table hinges			60
1	" wro't			36
	(Over)			141 79

		3 4	
	1	dozen brass hinges, 75, 94	1 69
5	1	gro. per. caps	45
	1	dozen lines, 25, 37	62
	½	gro. sad. awls, 2 25	56
6	½	dozen mallets, 75 and 13	88
7	1	brace and bits	1 37
8	2	" 1 50	3 00
9	2	gro. buttons, 25	50
10	6	balls twine, 4	24
11	1	gro. buckles, 75, 75, 88	2 38
12	½	doz. brass snuffers, 2 25	1 12
13	1	wro't do	1 50
14	1	doz. hair brushes,	3 00
15	½	" saw sets, 6	1 50
16	½	gro. thimbles, 3	75
	1	doz. "	31
	1	" bodkins,	12
	1	" darners,	25
17	½	doz. screw drivers, 2 25	1 13
18	½	" razor strops, 3	1 50
19	½	" German locks, 9	4 50
20	1	desk,	1 50
21	2	tills, 33	66
		35 37 40 43 51 79	
	1	gro. screws, 1, 9, 10, 1½, 9, 10, 1½, 11, 2, 13	2 85
	1	" " blued,	50
22	½	doz. sheep shears, 4	1 00
23	½	" shoe pinchers, 3	1 50
24	1	" wheel irons,	1 75
25	½	" rules, 4	1 00
26	½	gro. thimbles, 1 25	42
27	½	doz. razors, 6	3 00
28	½	" shears, 3	1 50
		2 3	
	½	" scissors, 29, 30	2 50
	2	" knives and forks, 31, 32	4 00
	3	con. augers, 2, 3, 4, 5, 6, 60, gr. 9	5 40
		Packages,	1 50
			$198 24

B.
July 7, 1847.

JOHN BINNS, *Commissioner.*

Goods missing:

½	bu. shoe pegs, 2 50	1 25
1	bed cord	29

1	paint brush, 4	18
1	" door bolt,	50
1	gro. per. caps,	45
1	doz. lines, 25, 37	62
¼	gro. awls, 2 25	56
⅜	doz. mallets, 75 and 1	88
6	balls twine, 4	24
1	doz. brass snuffers, 2 25	1 12
1	" wro't "	1 50
7/12	" hair brushes, 3	1 25
¼	gro. thimbles, 3	75
1	doz. "	31
1	" bodkins,	12
1	" darners,	25
1	screw driver,	19
½	doz. razor strops, 3	1 50
⅛	" rules, 4	1 00
⅓	" razors, 6	3 00
½	" scissors, 3	1 50

C. JOHN BINNS, *Commissioner.*
July 7th, 1847.

Mr. C. B. Bowman, bought of M. Buehler & Br.

112	lbs. A. B. steel, C 5¼	5 88
30½	" shear " C 16	4 88
		$10 76

D. JOHN BINNS, *Commissioner.*
July 7th, 1847.

PHILADELPHIA, *April 28th*, 1846.

Mr. G. H. Fowler, bought of M. Buehler & Bro.

112	lbs. A. B. steel, 5¼	5 88
22¼	" cast " 16	3 56
⅓	doz. shovels, 6	3 00
⅓	" " 9	4 50
⅛	" hand saws, 12	3 00
⅛	" coffee mills, 12	3 00
⅛	" straw knives, 12	3 00
⅛	" compass saws, 2 80	63
2	pair traces, 50	1 00
1	doz. scythe stones, 50 and 75	1 25
½	" scythes, 7 50	1 87
1	" grass	10 00

	1	dozen corn	13 00
	15	lbs. oil stone, 10,	1 50
	59	" sad irons, 5,	2 95
	2	pair steel yards, 1 and 1 25	4 50
	½	doz. trowels, 9	2 25
	20	packs tacks, 4, 4½, 5½	2 80
	5	packs sprigs, 16	0 80
	20	lbs. sparables, 10	2 00
	1	dozen table hinges	0 60
	2	" butt 40	0 80
	1	" " 83 and 1 40	2 23
	2	" brass, 75	1 50
1	1	" pepper boxes	0 50
2	½	" sugar bowls, 1 50	0 75
3	½	" horse rasps, 4 25 and 5	4 63
4	1½	" flat files, 3	2 75
5	½	" mill saws, 3	1 50
6	½	" rd. bast'a, 1 12	0 56
7	2	" hand saws, 87	1 75
8	½	" hand saws, 83	0 42
9	1	" pencils	0 10
10	1	groce R. bkls	0 75
11	½	" hasps, 1 50	0 37
	3	C. F. hooks, 20	0 60
12	1	dozen compasses	1 00
13	1	" door handles	1 50
		87 100	
	2	" " 14, 15	3 75
16	½	gross table spoons, 8	4 00
17	½	dozen brass snuffers, 2	1 00
18	2	m. per. caps, 60	1 20
19	½	gross awls, 2 75	1 38
20	½	" awls, saddles, 2 25	1 12
	3	" screws, ¾, 8, 30	0 90
		28 43 51 61	
	2	" screws, ¾, 7, 1¼, 10, 1½, 11, 13	3 66
	1	" screws, blued	0 50
21	½	dozen sheers, 3	1 50
22	1	" shoe knives	1 00
		50 62 75 88 100	
	2	" knives and forks, 23, 24, 25, 26, 27	7 50
		225 350	
	1	" knives, 28, 29	5 75
30	½	" knives and forks, 6	3 00
		Packages	0 94
			$130 00

E. JOHN BINNS, *Commissioner.*

July 7th, 1847

PHILADELPHIA, *May 5th*, 1847.

D. W. Gross, bought of L. Hartshorn.

1	box pulv'd tart. acid - - - - -	$10 00
5	boxes Treman's chrome yellow - - -	6 00
1	can imp. green - - - - - -	1 00
1	can gro. verdigris - - - - -	1 75
1	barrel Spanish brown - - - - -	2 43
1	" putty - - - - - -	10 62
2	boxes 1 oz. phials - - - - -	10 00
2	" 2 oz. " - - - - -	11 25
1	" 1 oz. inks - - - - -	6 88
1	" 2 oz. " - - - - -	7 50

Also bill of widow glass, as follows:

8	half boxes, Smith & Br.,	8 by 10, 2 12½	- 17 00	
6	" " "	10 by 12, 2 37½	- 14 25	
2	" " Mullica,	10 by 15, 3 50	- 7 00	
2	" " colored,	10 by 14, 3 25	- 6 50	
2	" " "	11 by 17, 3 75	- 7 50	
			52 25	
	Less 15 per cent.	- -	7 83	
				44 42
				$111 85

Edgar Emerick, affirmed. I am engaged in the queen's ware business. My place of business is 210, north Second street. On the 1st May, 1846, I sold a bill of goods to Mr. Abraham Miller, of Berwick. This paper, marked B, September, 1847, is a copy of the bill; it was made out by my brother. I have not compared it. I have the book here. To the best of my knowledge, those articles were sold to Mr. Miller and left my store; I can't tell when, a few days after that I suppose. I think they were collected by Mr. Brock; he generally collects his goods. I never saw them after they left our store.

Cross examined by F. W. Hubbell, esq.

I could not say whether I sold the goods myself or not. I would'nt like to say if I was present when they were sold. Those entries in my book were made by my brother.

EDGAR EMERICK.

Affirmed and examined, September 18th, 1847, before
JOHN BINNS, *U. S. Commissioner.*

B. John Binns, September 18th, 1847.

PHILADELPHIA, *May 1st*, 1847.

Mr. Abram Miller, bought of Edgar Emerick,
No. 210, north Second street.

50 sets painted teas, 10, 20	- - - -	$8 00
4 doz. edged plates, 45	- - - -	1 80
4 " " 40	- - - -	1 60
4 " " 31	- - - -	1 24
3 tin p. 45	- - - -	1 35
2 doz. new style, flat 52	- - - -	1 04
2 " " 46	- - - -	92
2 " " 42	- - - -	84
2 " firm house 75	- - - -	1 50
2 " " 62	- - - -	1 25
2 " sprig infir. 70	- - - -	1 40
2 " " 56	- - - -	1 12
3 " pale blue best 85	- - - -	2 55
2 " " 60	- - - -	1 20
2 " " 54	- - - -	1 08
2 " flem. bue. 1 12½	- - - -	2 25
6 figured bowls, 60, 50, 40	- - - -	3 00
6 " 50, 40, 31	- - - -	2 42
2 fine dash flin. blue sets, 3 75	- - - -	7 50
1 star - - -	- - - -	3 25
2 fancy, 270 - -	- - - -	5 40
1 pale - - -	- - - -	2 25
3 lamp glass, 35	- - - -	1 05
2 fine castors and bottles, 90, 75	- - -	1 65
2 doz. figured bowls to fill, 60, 50	- - -	1 10
Crate and box	- - - -	1 25
		$58 00

Archibald Towers, affirmed. Examined by Mr. Brooke.

In the spring—the witness sworn: In the spring of 1846 I was in the employment of J. M. Bolton; he was in the forwarding and commission business; I was at that time shipping clerk on the wharf; my duties were to ship goods and receive them; I attended to the loading of the boat Judge Royer about that time; on this particular voyage she began to receive goods on the 4th or 5th of May; I find from the book it was on the 5th of May; that was the day she commenced loading; this book shows the goods which were put on board the Judge Royer that voyage, and for whom; these papers marked C, 1, and C, 2, are the manifest copy of the book made out for the capt. to take with him; I know that those articles were shipped on board the Judge Royer on that voyage; the captain signed his name in the book to the shipment of those goods; the receipt in the book says, "all of which I promise

to deliver as directed;" the capt. left the wharf on this voyage with those goods, and proceeded on it.

Cross examined by Mr. Hubbell.

I made those entries in this book; the manifest was made out by Wm. Warr, who is a clerk in the office.

A. TOWERS.

Sworn and subscribed Sept. 18th, 1847, before

JOHN BINNS,
U. S. Com'r.

C, 1. John Binns, com'r, Sept'r 18th, '47.

CANAL TRANSPORTATION DEPOT, GIRARD WHARVES,
Philadelphia, May 5th, 1846.

Shipped by James M. Bolton on board the canal boat Judge Royer, Captain Vanderslice, the following packages, in good order, which I promise to deliver in like good order, the dangers of the navigation, fire, and unavoidable accidents excepted, to the persons consigned, at the different places, he or they paying freight for the same.

Ziba Bennett, Wilkesbarre.	15 bls. pork, 48.75; 8 half bbls. fish, 12.80; 52 bbls. fish, 4.00; hhd. oil; 13.20 - - - - - -	78.75
	15 bars spring steel; 8 bund's hoop iron; 20 bund's nail rods, and 1 bund'e scul. iron, 37.18 - - - -	37.18
	Barrels, oil, 3.35, 2.60, 3.45, 2.65, 3.90; 15 barrels fish, 45.00; 5 bags feathers, 2.50 - - - -	63.45
	4 lumps chalk, 1.00; 20 kegs white lead, 5,00; 10 kegs white lead, 5.00; keg of putty, 1.43 - - - -	12.43
	5 kegs white lead, 5.00; 2 boxes hats, 1.20; 5 boxes shoes, 2 50; 3 reams of paper, 90 - - - - -	9.60
	Box hats, 40; 3 bundles paper, 60; 22 bun's shovels, and 1 bundle forks, 7.50; box hardware, 40 - - -	8.90
	Paper package, 20; 13 bund's shovels, 5.20; boxes hardware, 80; 40 bund's forks, 40; 40 bund s linen, 1.25, 2.00 -	10.25
	Box books, 3.60; 7 bags coffee, 37.20; casks hardware, 6.25, 2.60. b'xes h'dware, 2.65, 2.45; casks h'ware, 3.20 -	57.95
	855; 3 bun's steel, 336; bx. cand's, 30; bx. sugar, 4.93; t'ce rice, 6.78; hhds. sugar, 12.68, 14.80, 13.22 - -	64.62
	Hhd. molasses, 15.75, 12.45, 14.30; bbls. molasses, 5.20, 4.60, 5.40, 5.40, 4.65, 5.72, 5.50, 5.15 - - - -	84.12

70

Phil. & Havre de Grace Steam Towboat Co.

	Bbls. whiting, 3.64, 3.68; bl. alum, 3.25; keg saltpetre; 40; bx. glass ware, 2.00; boxes candles - - - -	13.67	
	62, 62, 63, 67, 67, 66, 66, 60, 70, 60, 65, 60, 66, 66, 57, 63; bxs. soap, 96, 98, 95, 97, 96, 1.00 - - - -	16.02	
	bx. looking glasses, 190; 2 bun's steel, 2.24; 49 pieces cedar-ware; 3 bundles dishes - - - - -	4.14	
	1 bundle crout knives; 1 bundle wash boards; 1 bundle baskets; and 1 paper package, 6.25 - - - - -	6.25	
		467.33	11.68
W. L. Waller, Berwick.	1 bl. sundries, 2.20; bx. drugs, 1.45; bundle buckets, 40 -	4.05	
	Keg sal soda, 1.25; bx. hardware, 1.25; bund. handles, 25; 2 bund. shovels, 65 - - - - - -	3.40	
	6 kegs white lead, 150 - - - - [1.50]	7.45	19
Wm. Bird, Catawissa -	62 Spanish hides, 16.46 - - - - -	16.46	41
G. H. Fowler, Fowler's-ville - - -	Hhds. molasses, 10.20, 16.25; hhd. sugar, 11.65; bbl. sugar, 2.49; bbl. rice, 2.36 - - - - -	42.95	
	Bx. chocolate, 35; 2 bx's raisins, 50; bale loaf sugar, 39; bx. soap, 10 - - - - - - -	1.34	
	5 bags coffee, 8.00; box pipes 20; box chocolate, 35; keg cinnamon, 10 - - - - - - -	8.65	
	Bl. tobacco, 90; box tobacco, 1.72; bl. tobacco, 80; keg ground pepper, 25 - - - - -	3.67	
	Bag shot, 25; bale candle-wick, 10; jack screw, 25; 2 bun's shovels, 60 - - - - - - -	1.20	
	Bundle buckets, 40; keg ginger, 29; keg yellow ochre, 34; 2 churns, 25 - - - - - - -	1.28	

	Bundle scythes, 50; 4 kegs white lead, 1.00; box hardware, 3.00	4.50	
	Keg sulphur, 25; jar snuff, 20; box starch, 25; keg alum, 60; keg whiting, 73;	2.03	
	2 bbls. tobacco, 1.80; bund. buckets, 40; box shoes, 1.00; box drugs, 2.00	5.20	
	Boxes soap, 54, 74; bar and bund. steel, 1.42; crate ware, 5.55	8.25	
	6 half boxes glass, 2.40	2.40	
		81.47	2.04
	Bbl. sugar, 2.32; keg canister, 15; 1 keg white lead - [25]	2.47	12
Fincher and Thomas -	Hhds. molasses, 15.10, 16.60; hhd. sugar, 12.64; 8 bags of coffee, 12.80	57.14	
Penn. furnace - -	Box drugs, 50; box cigars, 1.00; bundle buckets, 40; 2 bbls. No. 2 mackerel, 6.00 - [6.00]	1.90	
	1 crate ware, 8.35; 1 bbl. large No. 1 mackerel, 3.00 [3.00]	8.35	
		67.39	1.68
A. Miller, Berwick -	9 bbls. fish, 27.00; 1 bbl. lard, 2.58; bundle buckets, 40 -	29.98	
	6 hf. boxes glass, 2.40; box ware, 1.90; box mdze., 45; crate Queensware, 7.70	12.45	
	2 kegs jugs, 1.20; box mdze., 1.15; 21 ps. cedar ware, 2.05; boxes candles, 56, 58, 58	6.12	
	Hf. box glass, 40; boxed piano, 6.10; bx. drugs, 1.80; 2 bund. codfish, 2.00	10.30	

	Bundle buckets, 40; hf. box glass, 40; bbl. oil, 3.00; bbl. cement, 2.80 - - - - - - -	6.60	
		65.45	1.64

C, 2.
John Binns, com., Sept. 18, 1847 - - -

CANAL TRANSPORTATION DEPOT, GIRARD WHARFS,
Philadelphia, May 5th, 1846.

Shipped by James M. Bolton on board canal boat Judge Royer, Captain Vanderslice, the following packages in good order, which I promise to deliver in like good order, the dangers of the navigation, fire, and unavoidable accidents excepted, to the persons consigned, at the different places, he or they paying freight for the same.

L. B. Rupert, Bloomsburg	6 bbls. No. 2 mackerel, 18.00 - - - -	16.00	
Geo. Masters, Millville -	4 bbls. No. 2 mackerel, 12.00; 4 bbls. herring, 12.00; 3 sacks gr. salt, 7.50 - - - - -	31.50	
J. Sharpless, Catawissa -	4 bbls. No. 2 mackerel, 12.00; 1 bbl. No. 1 mackerel, 5.00; bl. herring, 3.00 - - - - - -	18.00	
J. E. Sands, care of McKilvy, Bloomsburg -	1 bl. molasses, 4.50; 1 bag coffee, 1.60 - - -	6.10	
E. Hughes, care McKilvy, Bloomsburg - -	2 bbls. fish, 6.00; bund. scythes, 50; keg, 40; hf. box tobacco, 1.00, 93 - - - - - - - -	8.83	
	Bundle sickels, 25; hf. box tobacco, 82; 2 bags coffee, 3.20 -	4.27	
	Bbl. tar, 80; keg copperas, 64; kg. sal æratus, 77; cask ware, 3.35 - - - - - - - -	5.56	
		18.66	47

Vanderslice et al. vs.

J. K. Sharpless, Catawissa	Bund. wooden dishes, 25; box ware, 2.80; kg. drugs, 30; box boxes, 10 - - - - - - - -	3.45	12
R. McKoy, Washington, to be left at Danville. -	Bag coffee, 1.60; 3 sacks salt, 7.50; bbl. fish, 3.00 - -	12.10	30
C. B. Bowman, Berwick -	Hhd. molasses, 16.50; bale chalk, 32; keg brimstone, 28 -	17.10	
	Bund. pans, 25; bund. forks, 30; 2 bund. scythes, 1.00; bund. steel, 35 - - - - - - - -	1.90	
	Box tea, 79; keg s. petre, 36; bund. saws, 25; bx. axes, 60 -	2.00	
	Basket cradle, 50; box tea, 71; bx. hardware, 2.00 - -	3.21	
	Bl. l. sugar, 2.88; bl. rosin, 3.00; bl. oil, 3.10; bx. h'dware 2.80	11.48	
	Bund. saws, 25; 4 bbls. fish, 12.00; bund. steel, 1.12; 2 bbls. fish, 6.00 - - - - - - - -	19.37	
		55.66	1.13
Wm. Robinson, Bloomsburg.	Box soap, 1.09; bag dairy salt, 25; bx. candles, 44; bag coffee, 1.60 - - - - - - - -	3.38	12
Heffley and Mendenhall, Bloomsburg. - -	Bund. lead, 25; bx. dry goods, 2.30 - - - -	2.55	12
J. R. Moyer, Bloomsburg -	Boxes mdze., 1.30, 185 - - - - -	3.15	12
Geo. Weaver, Bloomsburg	Bx. merchandize, 1.40 - - - - -	1.40	12
Wolf and Roush, Danville	Bundle scythes, 40 - - - - - -	40	12
John Pennepacker, Harrisburg - - - -	Tr. molasses, 14.00; bl. fish, 3.00 - - - -	17.00	43
Ream & Kraul, care of Harrisburg - -	Hhds. molasses, 17.50; bl. molasses, 5.50 - - -	23.00	58

Phil. & Havre de Grace Steam Towboat Co.

Geo. Zinn, Harrisburg -	Hhds. sugar, 11.88; 2 bbls. fish, 600; kg. cinnamon, 10; kg. tea, 12 - - - - - - - -	18.10	
	Bbl. molasses, 4.65, 5.50; kg. tea, 18; kg. ginger, 25; box soap, 20; bund. tobacco, 67 - - - -	11.45	
	Cask cheese. 3.35; 2 bags coffee, 3.20 - - -	6.55	
		36.10	
Geo. W. Buffington, Harrisburg - - -	Hhd. oil, 11.75 - - - - - - -	11.75	91
D. W. Gross, Harrisburg -	20 hf. boxes glass, 8.00; bx. glassware, 95, 1.00, 1.00, 1.00, 75, 1.00, 75 - - - - - - - -	14.45	29
	2 boxes drugs, 30, 25; dog-house drugs, 100; bx. drugs, 30 -	1.85	
	Bbl. drugs, 3.74; bl. Sp. brown, 3.54; bbl. sundries - -	8.88	
	1 demijohn, 60; 4 carboys, 7.40 - - - -	8.00	
		33.18	83
Sam'l Wertz, Harrisburg -	4 bund. linen, 2.40 - - - - - - -	2.40	12
Jacob Fisher, Harrisburg -	1 bx. hardware, 25 - - - - - - -	25	12
Jacob Hibler, Danville -	1 bund. oil cloth, 1.20 - - - - - -	1.20	12

Boat Judge Royer, May 5th, 1846, Capt. Vanderslice.

Pork	4,875
Fish	19,380
Hardware	10,467
Oil	5,050
Dry goods	2,290
Drugs	8,296
Groceries	9,323
Sugar, 6 hhds. 1 bbl.	7,936
Coffee	6,920
Molasses, 9 hhd. 1 tierce, 12 bls.	21,042
Queensware	2,685
Salt	1,500
One piano	610
Hides	1,646
	102,020 lbs.
Storage	$23 76

Endorsement on back of manifest.

Francis Wells, aff'd. I am in the employment of Messrs. J. M. Wilcox & Co.; I have been in their employment since February, 1846; I have no recollection of the sale of a bill of goods to Ziba Bennett; I only know of the entry of the sale in our book. This is a copy of the entry in our books: "May 6th, 1846; 1413. 3 reams hardware, 21 by 28; Bennett, $7 84." This means hardware paper. The entry was made by me; I don't know who sold the goods; that entry is taken from our book of original entries. I don't know what Bennett that is, or where he lives. I can't say where the goods were sent to; I never saw the goods after, that I know. I do not know Judge Ziba Bennett.

Cross examined by F. W. Hubbell, esq., for defendants.

This entry is not made in our regular day-book; it is made in a small book, kept for the entry of cash sales. The information to make this entry was either given to me by the person who made the sale, or I made the sale myself; I have no recollection about it.

FRANCIS WELLS.

Affirmed and subscribed, Sept. 13th, 1847, before

JOHN BINNS,
U. S. Com'r.

John S. Fitchitt, sworn. I am engaged in the hardware business; I am alone in business; on the 21st April, 1846, I sold a bill of hardware to Mr. C. B. Bowman; I think that I sold the bill myself, but I am not positive. This paper, marked A, is a copy of my book of orig-

inal entries; the copy I made myself; I did not make the entry; the entry was made by John W. Hornor, who lived with me at that time; he is now at an insurance office on Walnut street. I do not know where these goods were sent; I can't tell without I have the delivery book, which we keep for that purpose. Mr. Bowman was, at the time of the sale of those goods, in the city. In the spring of 1846, on the 24th April, I sold a bill of goods to Jacob Fisher, of Harrisburg. The paper marked B is a correct copy, made from our book of original entries; it was made by me; I made also the entry in the book. I don't recollect who sold the goods; I am of opinion I sold them, but I am not positive. Those goods I think we delivered to Mr. Bolton's; kept a forwarding house.

Cross ex. by F. W. Hubbell, esquire, declined.

JOHN S. FITCHITT.

Sworn and examined, Sept. 13th, 1847, before
JOHN BINNS, *Com'r.*

A.—John Binns, commissioner, Sept. 13th, 1847.

PHILADELPHIA, *April* 21, 1846.

Mr. C. B. Bowman, bought of John S. Fitchitt.

	2	dozen knives and forks,	50, 75, 88, 100 1, 2, 3, 4	- -	$6 16
5	⅓	" pocket knives,	4, 50	- -	1 50
	½	" "	300, 600 6, 7	- -	4 50
	1	" "	75, 225 8, 9	- -	3 00
10	2	gross hooks and eyes,	16	- -	0 32
11	⅓	" hat pins,	1 50	- -	0 75
12	⅓	" padlocks,	3	- -	1 50
13	1	" "		- -	1 12
14	1	trunk	- -	- -	1 00
15	1	chest	- -	- -	1 00
16	1	cupd.	- -	- -	0 88
17	⅓	gross tea spoons,	4	- -	1 00
18	⅓	" table,	7 50	- -	1 88
19	1	dozen cork inks	-	- -	0 45
20	1	" ½-round bastard files,	12	- -	3 47
21	1	" flat	" 13	- -	4 25
22	1	" mill saw files,	12	- -	3 25
23	1	" horse rasps,	13	- -	4 25
24	2	" saw files,	75	- -	1 50
25	1	" glass knobs	-	- -	0 45
26	2	" "	F F, 87½	- -	1 75
27	⅙	gross mahogany,	2, 2	- -	0 33
	4	qr. sand paper,	15	- -	0 60
	¼	" scythe rifles,	5	- -	1 25

½	M. flints, 2 - - - - - -	1 00
½	dozen curry combs, 75 - - - -	0 38
½	" " 1 - - - -	0 50
1	" horse combs - - - - -	1 12
½	" Fisher's mills, 10 50 - - -	5 25
½	" Ames's shovels - - - -	5 25
1	" grain shovels, 8 - - - -	4 00
½	" F. H. Taylor's, 6 - - - -	3 00
2	mill saws, 6 feet pruls, 4 50 (9.00) - - -	9 00
	Box and porter - - -	0 63
		$76 17

B.—John Binns, commissioner, September 13, 1847.

PHILADELPHIA, *April* 24, 1846.

Mr. Jacob Fisher, bought of John S. Fitchitt.

3	pr. brass cdks., each 45, 50 - - - -	$2 85
11/12	doz. wood-saw hadls., warranted, 6 50 - -	5 96
1	" butch. 2d, says. plane irons 475, 581 - - -	2 34
½	" double irons, ex. 2, 2½ - - -	5 28
¼	" 2¾ in. single irons, 3 97 - - -	1 32
¼	" encl. plane and grove bitts, 2 76 - -	0 69
3 11/12	" brass knobs, 28 - - - -	1 07
1	gross " - - - - -	2 25
1	doz. reamers - - - - - -	1 25
60	in. oval pans, 15 - - - - -	9 00
2 1/12	doz. " hands., 50 - - - -	1 21
6	pr. 16 link traces, 75 - - - -	4 50
½	doz. moulder's shovels, 10 50 - - -	2 63
1	" garden hoes - - - - -	4 00
2	" American steel, 5 50 - - - -	11 00
101	lbs. English blister steel, 12½ - - - -	12 62
57	" cast steel, 17 - - - - -	9 69
2	doz. gimblets, 50 - - - - -	1 00
	Box and porterage - - -	0 62
	4 hoes extra - - -	1 24
		$80 52

September 18, 1847.

John S. Fitchitt, examined by C. W. Brooke, esq.

I now have my delivery-book with me. I am now able to say where the goods I sold to C. B. Bowman, the 21st April, 1846, were sent. The goods were delivered on the 25th April to Jordon & Brothers.

The goods I sold to Mr. J. Fisher were sent to J. M. Bolton, on the 22d of April.

JOHN S. FITCHITT.

Examined September 18, 1847, (Mr. Hubbell declining to examine,) before

JOHN BINNS, *U. S. Commissioner.*

Examined by Mr. Brooke. William L. Mintzer, affirmed: I am engaged in the coopering business, and manufacture cedar ware at Third street, near Callowhill. In the month of May, 1846, I sold a bill of cedar ware to A. Miller, of Berwick, North'd county; this is a copy of the bill of goods I then sold him; it is marked A, September 18, 1847, as hereto annexed; it was copied from the book of original entries by myself; I can't tell to whom those goods were delivered; we never take receipts from the grocer when he collects them; when I deliver them myself I take receipts; I do not know whether I delivered them myself or not; probably I delivered them, and if I did I have a receipt at home.

WM. L. MINTZER.

Affirmed and examined, September 18th, 1847, before

JOHN BINNS,
U. S. Commissioner.

A.—John Binns, September 18th, 1847.

PHILADELPHIA, *May 2d*, 1846.

A. Miller, bought of Wm. L. Mintzer.

2	14-in. iron bound tubs, at 95	- - - -	$1 90
2	12 " " " 80	- - - -	1 60
2	11 " " " 70	- - - -	1 40
2	18 " churns, at 1 87½	- - - -	3 75
2	20 " " 2 12½	- - - -	4 25
1	22 " " - -	- - - -	2 37½
2	ciled half bushels, *a* 62½	- - - -	1 25
4	11-in. iron bound buckets, at 6 00 per doz.	- -	2 00
4	10 " " " 5 00 "	- -	1 64
2	doz. painted pails, *a* 2 12½	- - - -	4 25
			$24 41

Thomas White, a witness produced on behalf of the libellants, being affirmed according to law, says:

I am a bonnet manufacturer; my place of business is at No. 41, south Second st.; on the 1st day of May, in the year 1846, I sold a bill of goods to Abm. Miller, of Berwick, Pennsylvania; I sold them

myself, and made the entry in my book; the annexed bill, marked A, is a true copy from my book; I have compared it with the book which I now have here; the goods were packed in a box or trunk; I do not know by what conveyance the goods were sent to Mr. Miller after they left my store; I never saw them afterwards; such articles as I sold to Mr. Miller would be very much damaged by being wet; they would be entirely ruined, unless they were attended to immediately, and even then they would not be worth more than fifty per cent. of their former value; it would cost at least twenty-five per cent. of their original value to repair them in such a manner as to render them worth fifty per cent. of such value; I made the entries in the book myself; they are in my own handwriting.

THOS. WHITE.

Sworn to and subscribed, September 22d, 1847, before
JOHN BINNS,
U. S. Commissioner.

A.

PHILADELPHIA, *May 1st*, 1846.

Abm. Miller, bought of Thomas White, bonnet manufacturer, No. 41, south Second street:

6 Florence bonnets, *a*	1 25	- - - -	$7 50
6 " "	1 50	- - - -	9 00
6 " "	1 75	- - - -	10 50
6 " "	2 00	- - - -	12 00
6 " "	2 50	- - - -	15 00
6 " "	3 00	- - - -	18 00
6 Miss. lace	1 25	- - - -	7 50
6 straw Gipseys	1 00	- - - -	6 00
3 lace inserted	1 75	- - - -	5 25
3 " "	1 25	- - - -	3 75
3 Miss. gimp	1 00	- - - -	3 00
1 p. inserting	2 25	- - - -	2 25
1 " "	2 75	- - - -	2 75
2 " edging	1 75	- - - -	3 50
1 fancy	1 25	- - - -	1 25
1 "	3 50	- - - -	3 50
			$110 75

July 20th, 1847. Parties present.

William P. Conover, a witness for the libellant, being duly sworn, deposes and says:

I am one of the firm of J. B. and W. P. Conover; we are in the shoe, bonnet, and Leghorn hat business in this city; on the 5th of May my brother sold a bill of hats, &c., to Ziba Bennett; this paper, A, is

a copy from the order book; this copy was made by Mr. Craven, our book-keeper; I have compared it with the original, and it is a correct copy; this is the original entry here; this bill was paid in cash; my brother, Perry Conover, made the entry in the book; he is a clerk in our store; I know nothing with regard to the sale of the goods, more than that the hats I know were put up for said Bennett; I saw the hats put up at the store before my brother packed them; I saw him packing them; the bill was paid to a clerk whom we had then, whose name was Peter Cassidy; these hats were delivered to Jordon and Brothers, 121 N. Third st., and directed to Z. Bennett, Wilkesbarre; I saw these hats afterwards; they were brought to our store in the neighborhood of the 19th or 20th May; the memoranda I hold in my hand I took from our delivery book in part, and from Mr. Cassidy's book, where we sent the hats to be trimmed; done up after; after they came to the store, after we had sold them to Mr. Bennett, after they came from the boat, where they were damaged; I then saw them; they were brought to our store by a drayman; who he was, I do not know; they were then in very bad condition; they were all saturated with mud and water; you could scarcely tell what the hats were; Leghorn goods are an article that spoil very quick; we had them finished and done up again; the expense of so doing was from nine to eleven dollars; I can't tell exactly; the reason I can't tell is, these small amounts were not entered in the book, only put on the slate and paid; Mr. Bennett paid the expense of repairing the hats; we repaired all the hats which were in our bill; the hats then were not in as good a condition as they were before; in my judgment, the lowest calculation of injury done them was 50 pr. cent.; I don't know where they were sent to after we repaired them; they were directed to Mr. Bennett, Z. Bennett, Wilkesbarre.

Cross examined by Ferd. W. Hubbell, esq.

I do not know what he sold them for; I do not know of my own knowledge that they were aboard of any boat; I do know of my own knowledge they were sold to Mr. Bennett; I was by at the time my brother sold them, and saw Mr. Bennett. The amount of the bill is $70.62; discount off $67.7. The entries in this order book are not in my handwriting, nor is it in any of the books I have referred to.

WILLIAM P. CONOVER.

Sworn and subscribed July 20th, 1847, before

JOHN BINNS,
United States commissioner.

A.—July 20th, 1847.

JOHN BINNS,
Commissioner.

PHILADELPHIA, *May 5th*, 1846.

Mr. Z. Bennett, bought of J. B. and W. P. Conover.

28 men's D. B. Leghorn hats, $\frac{3}{16}$, $\frac{3}{17}$, $\frac{3}{18}$, $\frac{3}{19}$, $\frac{4}{20}$, $\frac{4}{21}$, $\frac{4}{22}$, $\frac{4}{23}$ = 559 Nos., 12½ - - - - - - $69 87

1 box - - - - - - -	50
Coopering - - - - - -	25
	70 62
Off for cash - - - -	3 53
	67 07

Robert L. Smith, a witness for the libellant, being duly affirmed, deposes and says: On the 5th of May, 1846, I was in the employ of Doughty and Jones; they were in the shoe business in this city; I have the entry book of the sale of some boots to Ziba Bennett, dated May 5th; this entry is in my handwriting; this is the book of original entries of that firm; this paper B is a correct copy of that entry, made by myself; I did not sell the goods myself; I received the money for them from Mr. Bennet; I can't say where these goods were sent to, nor recollect that I saw them at any time afterwards.

Cross examined by Fred. W. Hubbell, esq. Mr. H. declines.

ROBERT L. SMITH.

Affirmed and subscribed, July 20th, 1847, before

JOHN BINNS,
United States commissioner.

B.—John Binns, commissioner, July 20th, 1847.

PHILADELPHIA, *May 5th*, 1846.

Mr. Ziba Bennett, bought of Dulty and Jones:

2 cases, 24 pair men's thick boots, c. 115 - - -	$27 60
Strapping 2 boxes, 25 - - - - - -	50
Nett prices - - -	28 10

Received payment,

DUDLEY & JONES,
Per R. L. SMITH.

July 13th, 1847.

Francis Jordan, a witness, sworn and examined for the libellant: I am in the wholesale grocery business. The name of our firm is Jordan & Brother; we do our business at No. 121 north Third street. In the spring of 1846 I sold goods to Ziba Bennett of Wilkesbarre; I sold those goods May 4th, 1846. This book we denominate an order book; we enter in it such goods as are sold personally, or ordered by our customers; this is the book in which the first entries are made of goods sold. Shall I read them off as they stand? 10 bags of Rio coffee, 10 bags Laguira coffee. The Rio weighed 1,634 lbs. at 8⅛ cents per lb.; Laguira 1,133 lbs. at 8⅛ cents per lb.; three hogs-

heads molasses, the gallons not down here; eight barrels New Orleans molasses, gallons not here; the price is 30 cents per gallon. The molasses in hogsheads was 19½ cents per gallon; 1 tierce of rice, 678 lbs., gross, 10 per cent. off, at 4½ cents per lb.; eight boxes dip candles at 8¾ cents per lb., weight is not here; eight boxes of mould candles, 9¾ cts. per lb.; one box of single loaf sugar; 493 lbs. tare, 59 lbs. at 11 cts. per lb., one bag of Java coffee; 137 lbs. tare, 2 lbs. at 12 cts. per lb.; one box of sperm candles, 31½ lbs., at 28½ cts. per lb.; three hhds. New Orleans sugar, weight not here; it says 6½ cents per lb., 56 lbs. neat weight, ground pepper in papers, price not here; six boxes of yellow soap, 4½ cents per lb., weight is not here; two half chests young hyson tea at 56 cents a pound, no weight here. That is all. We could from our day book give the weight and prices of all those articles, but it is at home. This is the day book; I can tell from this how many gallons were in the three hhds. of molasses (Trinidad.) There were in them altogether 337 gallons; in the 8 bls. of New Orleans molasses were 330 gallons; the 8 boxes of dipped candles weighed 450 pounds; in the 8 boxes of mould candles 490 pounds; the nett weight of the three hhds. of New Orleans sugar was 3,582 pounds; the price of the pepper, 56 lbs. was 14 cents per lb.; the 6 boxes of yellow soap weighed nett 492 pounds; the two half chests of tea nett 127 lbs.; I now turn to the entries in the case of Mr. Bowman; these goods were ordered of us by letters from Mr. C. B. Bowman, of Berwick, Pa.; one hhd. Boston syrup molasses, 127 gallons, at 38; I am reading from our day book; three lumps of double loaf sugar, 29 lbs. at 12½ cents per lb.; one barrel lump sugar, 82 lbs. nett, 11½ cents per lb.; that barrel was filled with Rio coffee weighing 76 lbs., at 8¼ cents, charge of the barrel 25 cents; one barrel of sperm oil, 37 gals., a dollar a gallon; half a chest young hyson tea, 67 lbs., nett 72 cents per lb.; half chest of imp. tea, 59 lbs., at 78 cents per lb.; one barrel rosin $1 13; one keg of saltpetre, 33 lbs., 9 cents per lb.; charge for keg 20 cents; one keg of brimstone, 26 lbs., 3½ cents per lb., charge keg 18 cts.; 32 lbs. white chalk, 1 cent per lb.; four barrels No. 2 mackerel, at $6 00 per barrel; under date of May 8, 1846, we have charged here to Ch. B. Bowman one bbl. No. 1 mackerel, $11 25, and one bbl. No. 2 mackerel, at $6 per bbl. I have here also the book of original entries in which the first entries of the sales of those goods to Mr. Bowman were made; the entries in this book correspond with those I have read from the day book; I made the original entries of Mr. Bennett's goods; John Jordan, jr., made those of Mr. Bowman's; I sold the goods to Mr. Bennett; they were bought by Mr. Bennett personally; they were sent to Bolton's wharf; Bowman's goods were ordered by letter; they were sent to Bolton's also; I selected the articles for Mr. Bowman; I saw these articles afterwards, part on Bolton's wharf and part in his store house; they were found by me in a terrible bad condition; I examined, I think, all what were there.

Question. Were there any articles entirely missing?

1 box		50
Coopering		25
	70	62
Off for cash	3	53
	67	07

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Cross examined by Fred. W. Hubbell, esq. Mr. H. declines.

ROBERT L. SMITH.

Affirmed and subscribed, July 20th, 1847, before

JOHN BINNS,
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heads molasses, the gallons not down here; eight barrels New Orleans molasses, gallons not here; the price is 30 cents per gallon. The molasses in hogsheads was 19½ cents per gallon; 1 tierce of rice, 678 lbs., gross, 10 per cent. off, at 4½ cents per lb.; eight boxes dip candles at 8¾ cents per lb., weight is not here; eight boxes of mould candles, 9¾ cts. per lb.; one box of single loaf sugar; 493 lbs. tare, 59 lbs. at 11 cts. per lb., one bag of Java coffee; 137 lbs. tare, 2 lbs. at 12 cts. per lb.; one box of sperm candles, 31½ lbs., at 28½ cts. per lb.; three hhds. New Orleans sugar, weight not here; it says 6¼ cents per lb., 56 lbs. neat weight, ground pepper in papers, price not here; six boxes of yellow soap, 4¾ cents per lb., weight is not here; two half chests young hyson tea at 56 cents a pound, no weight here. That is all. We could from our day book give the weight and prices of all those articles, but it is at home. This is the day book; I can tell from this how many gallons were in the three hhds. of molasses (Trinidad.) There were in them altogether 337 gallons; in the 8 bls. of New Orleans molasses were 330 gallons; the 8 boxes of dipped candles weighed 450 pounds; in the 8 boxes of mould candles 490 pounds; the nett weight of the three hhds. of New Orleans sugar was 3,582 pounds; the price of the pepper, 56 lbs. was 14 cents per lb.; the 6 boxes of yellow soap weighed nett 492 pounds; the two half chests of tea nett 127 lbs.; I now turn to the entries in the case of Mr. Bowman; these goods were ordered of us by letters from Mr. C. B. Bowman, of Berwick, Pa.; one hhd. Boston syrup molasses, 127 gallons, at 38; I am reading from our day book; three lumps of double loaf sugar, 29 lbs. at 12½ cents per lb.; one barrel lump sugar, 82 lbs. nett, 11½ cents per lb.; that barrel was filled with Rio coffee weighing 76 lbs., at 8½ cents, charge of the barrel 25 cents; one barrel of sperm oil, 37 gals., a dollar a gallon; half a chest young hyson tea, 67 lbs., nett 72 cents per lb.; half chest of imp. tea, 59 lbs., at 78 cents per lb.; one barrel rosin $1 13; one keg of saltpetre, 33 lbs., 9 cents per lb.; charge for keg 20 cents; one keg of brimstone, 26 lbs., 3½ cents per lb., charge keg 18 cts.; 32 lbs. white chalk, 1 cent per lb.; four barrels No. 2 mackerel, at $6 00 per barrel; under date of May 8, 1846, we have charged here to Ch. B. Bowman one bbl. No. 1 mackerel, $11 25, and one bbl. No. 2 mackerel, at $6 per bbl. I have here also the book of original entries in which the first entries of the sales of those goods to Mr. Bowman were made; the entries in this book correspond with those I have read from the day book; I made the original entries of Mr. Bennett's goods; John Jordan, jr., made those of Mr. Bowman's; I sold the goods to Mr. Bennett; they were bought by Mr. Bennett personally; they were sent to Bolton's wharf; Bowman's goods were ordered by letter; they were sent to Bolton's also; I selected the articles for Mr. Bowman; I saw these articles afterwards, part on Bolton's wharf and part in his store house; they were found by me in a terrible bad condition; I examined, I think, all what were there.

Question. Were there any articles entirely missing?

Answer. Yes, sir; the coffee, none of it was there; that is, I think, in Bennett's case I should say first.

Question. In what condition was the Trinidad molasses?

Answer. That was what I should call molasses and water; as nearly as I recollect it must have been damaged between 40 and 50 per cent.

Question. What was the state of the N. O. molasses?

Answer. One barrel was perfectly sound; all the rest was more or less injured; I should think from 10 to 30 per cent. was the average damage; some barrels were not injured so much as others.

Question. Can you give us the average damage?

Answer. I should think on the seven barrels about 20 per cent. at the very least.

Question. What was the condition of the rice?

Answer. It was soaked through with water, and somewhat discolored; at the time I thought it was entirely worthless.

Question. What was the condition of the candles?

Answer. They were also wet through; at that time I did not think myself competent to tell what damage was done to them; I opened the boxes; the candles were washed together, not fit for use.

Question. Are you able now, sir, to form any judgment as to their value?

Answer. I am, sir; they are only worth the tallow; they have to be re-made; I think the tallow was worth about 7 cents at that time; I don't recollect seeing the box of single loaf sugar at all, or the Java coffee that was in bags, or the box of sperm candles, or the box of ground pepper; the three hhds. of New Orleans sugar was almost all dissolved.

Question. What was the value of the remains?

Answer. About 2¾ cents a pound; I don't know how many pounds there were; the yellow soap was injured about 20 per cent. as well as I can recollect; the two half chests of y. hyson tea were totally ruined.

I now commence with Chs. B. Bowman's bill. The syrup molasses were injured I think not less than 25 per cent; the double loaf and lump sugar entirely dissolved; nothing left but the strings and paper; the Rio coffee was a total loss; the bbl. of sperm oil I don't recollect to have seen; the half chest of y. hyson tea and the half chest of imperial tea were a total loss; the bbl. of rosin I did not see; the keg of saltpetre was injured 50 per cent; the brimstone and white chalk I don't recollect to have seen at all; I can't tell if I seen all the mackerel belonging to Mr. Bowman; what I did see were not injured; I believe that's all.

Cross examined by F. W. Hubbell, esq.

I have been in the grocery business 11 or 12 years; I know that these goods went to Bolton's wharf, by the orders received from Mr. Bennett, in writing; these orders I have been speaking of only pertain to Mr. Bennett's purchase; I know that the rest went to Bolton's by the written receipts from Mr. Bolton's; the boxes in which the candles

were, were not crusted; I have said I was not a judge at the time; I have since become a judge by talking to the tallow chandlers; we have been paid for Mr. Bennett's in full; I can't answer for Mr. Bowman's; I can say we have been paid in part, how much I could not say, without looking at his account; he is very good pay; I take it for granted it is nearly all paid; these bills were sold on six months credit; the charges I have given you were under that credit; we take off three per cent. discount for cash; I made my inquiries of tallow chandlers of my own head, and not at the request of any person; I am not able to give the quantities and prices without the aid of my book, the prices of groceries change so much; I think I could say as to the quantities without the aid of my book; I was not able to answer as to the quantities until I looked at the books; I mean to say I am able to answer now; I have looked at the books; I did not make any of the entries at all in the day book; in some articles in the order book, the price and quantities do appear; in giving my evidence, I have stated where they do appear; in Mr. Bennett's bill, in the order book, I wrote all but one line; Mr. Bowman's bill was written by John Jordan, jr., copied from Mr. Bowman's order, I believe; in all instances where coffee is wet, it is totally lost; I did not see the coffee at all, except one barrel of Mr. Bowman's, and that was as black as a fur hat; it was put up with lump sugar in a barrel. The bags in which the coffee was were not there; coffee in bags does not float; I have [had] an attempt to dry coffee that has been wet with fresh water; I can't say if that was three or five years ago; it was some that got wet in my store by rain beating in under the door in the night; we put it in a box where we keep samples of coffee; we give the coffee away whenever found it would not sell; we gave away all that dried coffee; it was about forty pounds; we did not try to sell it at auction; I gave it to the beggars; I don't know what they did with it; I suppose they drunk it. It is the practice of some families to soak coffee before they use it, but I do not approve of it; if I had ten or twelve bags of coffee wet, I would not give them away; I would send such coffee to auction without drying, immediately; I have no knowledge what become of the Trinidad molasses, without I look at my book.

Question. What had you to do with it afterwards, that your books should contain an entry of it?

Answer. Some of the goods were sent by the Lehigh line; and if I refer to my books, I could tell whether any of the molasses were sent. The New Orleans sugar was sold at public auction in this city by Richards and Bispham; I think the sale was directed to be made by our house, but not by myself; I do not know what become of the N. O. molasses of my own knowledge; I did not, and I think our house did not, give any notice to the steam towboat company of that sale at auction.

Question. How did you calculate the average damage on the N. O. molasses at 20 cents?

Answer. I did not calculate it particularly in my head, if I was doing right or wrong; I mean that I guessed at it; I did not take into calcu-

lation the sound barrels; the rice, I think, was sold at auction, too; I think if the sugar was sold by order of our house, the rice was also sold by order of our house; I do not know what it brought; the rice appeared as if the juice off iron had run through it. The rice was in a tierce; a tierce is between a barrel and a hogshead; I had examined the tierce before it was sold; the hoops were of wood; the head was out after the accident; I should think I looked into it about nine or ten inches; I scooped it out with my hands; I don't know that the head was taken out for me to examine; it was out when I came there; I was sent for to examine it; I can't say, positively, whether I examined every box of candles or not; I do not know what became of the candles; none of the goods which had been purchased of us before this disaster, and had encountered this disaster, were sent otherwise than by the Lehigh line; I don't know what became of the candles, nor the yellow soap; I don't know what became of that. The half chests of y. hyson tea, I said, they might as well throw away; I don't know what became of it; I do not know what became of Mr. Bowman's syrup molasses; the water gets in where the molasses won't run out; the casks were in very good order, and it was a perfect mystery to me; I don't know that it has sold for 25 per cent. less than it cost; the double loaf and lump sugar were in an empty barrel; I pronounced the half chest of y. hyson and imperial tea, which was sold to Mr. Bowman, as worthless; I don't know what became of it; the keg of saltpetre for Mr. Bowman was open; I don't know whether it was I opened it, or it was opened for me; I don't know what became of it; it was dissolved, a good part of it.

Re-examined by Mr. Brooke.

Question. At the time the entries were made in the book of original entries, had the molasses and other articles of which the quantities are not there given, been gauged or weighed?

Answer. No, sir; they were so before the entries were made in the day-book.

Again cross examined by Mr. Hubbell.

I weighed the articles myself, except the sugars; they were weighed by a weigh master; I did not see that done, nor did I gauge the liquors; *the* were gauged by Stewart Magee; I cannot say whether I saw that done, but I invariably take off the figures of the packages wherever they are; it is always done twice in my store.

FRANCIS JORDAN.

Sworn and subscribed, July 13th, 1847, before

JOHN BINNS,
U. S. com'r, E. dis. Pa.

John Gilbert, a witness sworn and examined for the libellant. I am in the drug business at No. 179 N. Third st; in the spring of 1846 we

sold goods to Gilbert H. Fowler; we were then doing business under the name of John Gilbert and Co.; the goods were sold on the 27th April, 1846; I can tell you the articles. Shall I call over the articles? Three boxes of glass, $4 14/100 per box; four kegs of lead, $8 50 for the 4 kegs; 34½ lbs. yellow ochre, at 2 cts. per lb., keg 20 cts., 89 cts. is the amount; 29 lbs. of ginger, keg 24 cts., 9 cts. per lb., $2 85; 25 lbs. starch, box 15 cts., 6¼ cts. per lb., $1 77; 60½ lbs. alum, 4 cts. per lb., $2 54; 16 lbs. of indigo at $1 10 per lb., $17 60; 3 lbs. cloves at 37½, $1 12½; 12 lbs. cream of tartar, 20 cts. per lb., $2 40; 3 lbs. camphor at 50 cts. a lb.; six pounds ground cinnamon, 30 cts., $1 80; 5½ lbs. cinnamon, 23, $1 18; 5 lbs. borax, 19, 95; 1 lb. fly stone, 31; 3 lbs. antimony, 12½, 37½ cts.; 20 lbs. litharge, 8 cts. per lb., $1 60; 5 lbs. glue, 13 cts. per lb., 65; ½ pound opium, $5 00 per lb., 2 50; a dozen of opodeldoc liquid, 87½ cts.; a dozen Harlem oil, 75 cts.; one doz. oil of spike; three doz. German pills, 90 cts., $2 70; one doz. black varnish, $1 25; one doz. blue ink, 50 cts.; one of black, 50; one doz. worm tea, 75; one doz. castor oil, $1 00; gross of bottle corks, 40 cts.; one gross of phial corks, 12½ per gross; two quires of sand paper, 18 cts. a quire, 36 cts.; five lbs. epsom salts, 5 cts. per lb.; 3 lbs. glauber salts, 7 cts. the whole; 2 lbs. gum assafœtida, 62½ cts.; one doz. horse powders, $1 00; one lb. spirits of salts, 16 cts.; 6 lbs. of liquorice, 18 cts., $1 08; one gallon sweet oil, jug, 25, $1 50; 1 gallon castor oil, jug, 25, $1 25; one doz. worm syrup, $2 00; 73 lbs. whiting, keg 12½, $0 14/100; 29 lbs. roll sulphur, keg 20, at 4 cents., $1 36; two lbs. sponge, 20 cts. a lb., 40; one dozen wafers, 25; one gallon lemon syrup, jug 25, $1 50; charge of box, $1 00; total, $84 66. I presume these goods were collected; I have got no mark of delivery, and therefore presume they were collected by some grocer; I am not positive that I saw these articles afterwards; I saw some articles; there were several that bought goods that went on the same boat; I think Mr. Miller bought some [for] Abr'm Miller, of Berwick; there may be some others bought; I can't recollect; I am under the impression Chas. Bowman had some goods on board that came from our house; under date of April 29th, 1846, I find to Ab'm Miller, one doz. Bateman's drops, 37½; one doz. castor oil, 75; one doz. sweet oil, 75; three gallons of turpentine, $3 39; 2 lbs. gum opium cam., $9 00 the two lbs.; six gallons 3 pts. of wine, two jugs, 75; total, $4 18; one lb. nutmegs, $1 65; 34 gals. linseed oil, total, $22 76; two gallons copal varnish, $3 94; 2 boxes glass, total, $7 24; one box do., $4 25; a half do., $2 55; a half do., $2 98; 1 lb. mineral green, 45; 1 lb. of the second quality do., 37½; 20 lbs. dry white lead, 7½ per lb., $1 50; 25 lbs. putty, 4 cts, $1 00; two doz. pint packing bottles, $1 50; 2 doz. lamp wick, 25; one doz. lemon syrup, $3 00; lemon syrup and jug, 25; one bbl. cement, $3 00; packing box, 75; total, $74 88. Those articles were collected by John Brock and Co.; I seen some of those articles down at Mr. Bolton's articles, cannot say whether they were these or not; those articles there were a number of them apparently shipped, and when I called in and seen the

articles that were returned of my own matters, I did not mind any others; I confined myself to them; I can't say what articles I did see, except from that paper. (Here Mr. Brock hands the witness a paper.) I could not really say what I have seen of them; I recognised them as being the articles which came from our store; I am perfectly satisfied of that; they were in bad condition; some of the articles I seen there were entirely spoiled; I cannot name articles from recollection that was spoiled; I don't recollect that I made any estimate of the damage that was done; I might have done it, but don't recollect.

Question. Go over these bills and name what articles would be likely to be spoiled by being immersed in water?

Answer. Well, here is the sale of the glass, that would be injured a great deal; also of the lead, the yellow ochre, if the water got into the keg it would be injured entirely; I can't say whether it did or not.

Question. What probable injury as to the glass and lead?

Answer. It would depend, as regards the glass, whether it was knocked about much and broken, it would be injured in its sale by the wetting of the boxes; as to the lead the sale would be deteriorated by the appearance of the kegs, if no water got in and all was tight; the ginger would be entirely spoiled if it got wet, and the starch also.

Question. In what manner was the starch and ginger put up?

Answer. In keg and box; the starch was in the box, and the ginger in the keg; the alum, if it became sufficiently wet, would be totally lost; the alum was in a keg; the indigo, if it were perfectly wet, would be lost entirely; it was in paper, I presume; the cloves would be deteriorated; they were packed in paper; the flower of sulphur also; the cream of tartar a perfect loss, if very wet; it was also in paper; the camphor, also in paper, deteriorated; ground cinnamon, in paper also, deteriorated; borax would deteriorate more or less; it was also put up in paper; fly stone would not be affected, neither would the antimony nor litharge; the glue a total loss, if it got wet, and if it got on the others would injure them; gum opium would be nearly a total loss, if perfectly saturated with water; opodeldoc, very little loss on that, just for wrappers; harlem oil the same; oil of spike the same; German pills a total loss if wet; black varnish very little injured; I mean to say the wrappers would only be injured; worm tea would be a total loss; castor oil in bottles could stand the same as the varnish, only the wrappers would be injured; the bottle and phial corks not injured; the sand paper, epsom, and glauber salts, would be a total loss; assafœtida and horse powders would be the same; liquors the same; sweet oil and castor oil would be somewhat deteriorated; worm syrup, the wrappers would be about the only loss; whiting, total loss; roll sulphur and sponge I should not suppose there would be much loss; wafers a total loss; if the box in which these articles were packed was thoroughly wet through, all the articles papered would be very nearly a total loss; they were in a regular packing box, something smaller than a dry goods box, I should imagine. I now turn to the bill of Abm. Miller's. Bacon's drops, castor oil, and sweet oil, would be deteriorated by being

wet; turpentine I should'nt suppose any loss; gum opium, total loss if saturated; spirits of wine, no loss; I should think the nutmegs would be partially injured by lying in the water any time; linseed oil, if the barrel kept sound, would not be injured any; copal varnish not injured, I should suppose; glass, the sale of it would be deteriorated; mineral green, and dry white lead, entirely lost, that is, if perfectly saturated with water; putty no loss; cement would be an entire loss if it were to get perfectly wet; lemon syrup would be deteriorated. These are articles were in the same kind of a box as the former, and would be, those in paper, affected in the same way. If my memory serves me right, the articles looked in a very bad condition when I was there. I mean at Bolton's. It strikes me very forcibly, in seeing a quantity of some of these goods being covered with a solution of the glue, the glue *having* dissolved and covered it or run through it. The articles appeared in very bad condition, from having been so long in the water; they appeared to be wet, very wet. I do not know what became of them.

Cross examined by Ferd. W. Hubbell, esqr.

The dry white lead was not in kegs; it was papered. I sold all these goods myself. I made those entries in this book; the whole of them. I sold the goods to the men themselves, Mr. Fowler and Mr. Miller. They were here themselves. I don't know that I could, independent of that book, have given any account of the goods sold, nor at what price or quantity. That of Mr. Fowler's I made the entry on the 27th April; the very day I sold them I put them down. The sale of Mr. Miller's was on the 29th April. I do not know that any of those goods went on the Judge Royer of my own knowledge. I cannot say positively, whether all the goods which were packed in paper were or not in boxes; if not in boxes, they would have been just tied in paper, with the name of them. I have no memory of sending any in that way.

Question. You spoke of glass; was that in boxes?

Answer. Yes. I mean window glass; it would be deteriorated in the sale by the appearance of the boxes; and if roughly handled, it would have been very much broken. I have no knowledge that it was broken. The lying in fresh water for 24 hours would affect the color of the boxes, and make them look like old boxes. I could not come to a per centage on the sale. I do not know that the phials would be injured at all, if not broken. The prices I have given are not cash prices, but credit at 6 months. We take off a discount of 5 per cent. on those prices for cash. I do not recollect that there was any allowance at all made to either of those men.

Re-examined by C. W. Brooke, esq.

I can't recollect that any portion of those goods were returned to us

in any shape or way. The pint packing bottles, you might call them phials, would not be injured at all.

JOHN GILBERT.

Sworn and subscribed July 13th, 1847, before
JOHN BINNS,
Com'r, D. court.

Horace C. Peck, sworn. I am of the firm of Louis and Peck; we are booksellers; our place of business is at the corner of Third and Arch streets; on the 1st May, 1846, I sold a bill of goods to Ab'm Miller, of Berwick; this paper, A, is a copy of the bill of goods sold, made from the book of original entries; the goods were packed in a box; I presume they were called for by the collecting agent of the purchasers, who is generally the grocer from whom they buy their goods; I did not see our goods after they were delivered; such goods being immersed in water, would not be worth more than 5 per cent.; the books would be completely ruined, fit for nothing but to make other stock off; about the same time we sold to Mr. Miller, we sold a bill of goods to Mr. Ziba Bennett; I saw them goods afterwards in a warehouse on the wharf between Arch and Market; it might have been low down; they were laid out to dry; I did not observe any other damaged articles in the warehouse where our goods were; they were in a small room by themselves; I was called to know what we would give for them; I offered three dollars for the lot as they lay; in my judgment that was the value of them; they were wet completely through, completely saturated with water; the bindings were loose from the books; the young men who went with me offered to sell them at five, which I declined; he was somebody employed in the store, who was instructed to show me the goods; I saw a statement in the paper some time after of the boat's being lost.

HORACE C. PECK.

Sworn and subscribed, September 21st, 1847, before
JOHN BINNS, *Com'r.*

A. John Binns, commissioner, September 21st, 1847.

May 1st, 1846.

A. Miller.

To	3	2	quires half bound,	6 qrs.,	12½	-	-	-		75
"	3	3	" "	9 "	12	-	-	-	1	13
"	3	2	" "	6 "	14	-	-	-		84
"	3	3	" "	9		-	-	-	1	26
"	2	3	" "	6	15	-	-	-		90
"	2	2	" "	4		-	-	-		60
"	1	8	" ledger full bound,		30	-	-	-	2	40
"	1		docket,	4 qrs.,	30	-	-	-	1	20

To 1	day-book, 5 qrs.	broad - - -		1 50
" 1	day-book, 6 "	long - - -		1 80
" ½	ream Goodwin's letter, 2	- - -		1 00
" ½	" Ames' letter, 1 50	- - -		75
" 1	" H and L cap	- - -		1 63
" 1	" Goodwin's	- - -		2 00
" 1	box ink, 2 doz., 44	- - -		88
" 1	dozen wall	- - -		1 50
" 20	pcs., 25	- - -		5 00
" 2	" border, 50	- - -		1 50
" 2	No. 1 bibles, 95	- - -		1 90
" 1	bible, superfine	- - -		3 00
" ½	doz. German farrier, 1 50	- - -		50
	Box	- - -		50
				$32 54

July 16*th*, 1847, *parties present.*

Martin Buehler, declaring himself conscientiously scrupulous of taking an oath, was duly affirmed; and on the part of the libellant, deposes and says:

I am one of the firm of Buehler and Bros., hardware merchants of this city; in the spring of 1846, I sold a bill of goods to C. B. Bowman, of Pennsylvania; I sold the goods April 26th, 1846; I did not sell a bill of goods to Mr. Fowler; my brother John did; it was sold on the 28th April, 1846; I saw those goods which were embraced in both bills at Mr. Bolton's warehouse some eight or ten days after; the goods in a damaged state had been put in the warehouse; my brother John was the first person who went from our establishment to view them; he went immediately after the arrival of the boat that had the goods on board; it was some days after he went that I went; there were a ; I had not the invoice; at the time I saw the goods they were in a very bad condition; goods rusted and the bundles in a mutilated state; they had been oiled; I considered the damage to be at least 60 per cent. at the time I saw them; it is not possible to arrest the rust when it once begins in goods of that description; these goods were afterwards repacked and forwarded to Bowman and Fowler, to each of their addresses.

Cross examined by Mr. McMurtrie.

A copy of the entry of the goods sold was sent to Mr. Bolton; I did not compare it nor make it; I have never made a copy of either of those bills of goods; the entries of the sales to Mr. Bowman are in the handwriting of Philip H. Lochman; the entries of the sales to Mr. Fowler are in the handwriting of John A. Neff; I am not able to speak to the quantities or qualities of these goods, except by reference to these entries; the goods I saw at Mr. Bolton's were laid out separate,

and the names marked on *on* the floor, Mr. Bowman's name and Mr. Fowler's; I had nothing further to inform me that these were the goods, further than that I overlooked the goods, and recognised them as having sold the articles, Mr. Bowman's lot; all the knowledge I had was that I knew them to be the goods sold; I knew at that time that those articles were entered in this book; I acquired that knowledge from memory of what I had sold; I had seen the entries after I had sold the goods; I always overlooked every entry.

MARTIN BUEHLER.

Affirmed and subscribed, July 16, 1847.

JOHN BINNS,
U. S. commissioner.

George A. Roberts, a witness for the libellants, being duly sworn, deposes and says: I am in the hardware business in this city; the firm is Conrad and Roberts; I sold a bill of goods to Ziba Bennett, of Wilkesbarre, in the beginning of May, 1846, May the 5th; the entry I believe is made in the handwriting of Joseph Knight, a young man in our employ; I know it is his writing; he is still with us; this bill it is a correct copy of our bill of original entries; I have compared it; I sold that bill, every item in it; those goods were sent to Bolton's; I saw them afterwards at Bolton's, after they had been brought back to the city; it was from a week to two weeks after the sale; not more than two weeks; I found them very much worse; some of them, rough goods, but trifling the damage; the majority of the goods were very much damaged; over fifty per cent. considerably; the average damage I consider at least 50 per cent.; we did nothing to the goods but examine them; I did not; others did to my knowledge; Ziba Bennett's young man was cleaning and oiling them, and putting them in dry papers; I think rust, when it commences on such goods, may be arrested in a measure if taken in time, but we can't improve the goods after they are once rusted, not hardware; in time, if the rust be let to lay, it will eat them up, destroy them entirely.

Cross examined by Mr. McMurtrie.

I call the shovels rough goods; I believe that is the only item there I call rough goods; I would call unmanufactured iron and steel rough goods; there were none there; the steel was in bars, but it was a manufactured article; it was damaged some; steel damages faster than iron; that was a cash sale; there was a deduction of 5 per cent. off, which makes that bill cash price; the bill was $200 45, and we received $190 45; I sold them goods, but I cannot recollect the prices of the different articles without reference to the book; the 12 pr. traces are not rough goods; they were bright; iron and steel will damage while under the water without exposure to the air, but more rapidly on exposure to the air.

GEORGE H. ROBERTS.

Sworn and subscribed, July 16th, 1847, before
JOHN BINNS, *U. S. commissioner.*

Silas H. Wentz, a witness for the libellant, being duly sworn, deposes and says: I am a member of the firm of John Gilbert & Co., druggists of this city; on the 27th of April, 1846, I sold a bill of drugs to Fincher and Thomas, of Columbia county, Penn furnace; these goods were sold by me to their agent, Mr. Smith; I made the entry in our book of original entries; this copy, B, is in my handwriting, and I believe it to be a correct transcript; I compared them and found them the same; these goods were collected from our store, I cannot tell by whom; I did not see them at any time after they left the store; I was at Bolton's wharf and made search for these articles; not for these particularly, but for all that we sold to different individuals; I found none of Fincher and Thomas; they were packed in one box; I did not find the box; I found some goods that we had sold to Mr. Fowler, and some that we had sold to Ab'm Miller; I saw these articles at the time I was searching for the goods of Fincher and Thomas; it was some days after the boat had sunk, and the goods returned to the wharf; I found the articles of Mr. Fowler and Mr. Miller in very bad condition; I can't recollect sufficiently to be able to say to what extent those goods were damaged; there were a number entirely spoiled. Being shown a copy of the bill attached to the deposition of John Gilbert, the witness says, he cannot recollect sufficiently to specify which articles were entirely spoiled; those articles in paper packages were nearly all entirely ruined; those in packages were dry white lead, gum opium, mineral green; that's all I see particularly; the labels on the bottles were entirely defaced, or nearly so; there are some articles mentioned in Miller's bill which I did not see at the wharf at that time. Being shown a copy of the bill of Gilbert H. Fowler, the witness says: Being shown the deposition of John Gilbert, the witness says: I can't say without being shown the original entry whether these are the goods we sold to Fowler or not.

Cross examined by Mr. McMurtrie.

This bill of Fincher and Thomas must have 5 per cent. deducted to bring it to cash price; I do not recollect what became of the goods I saw in Bolton's warehouse; I think I once did know, from the fact of my having examined the goods there.

SILAS H. WENTZ.

Sworn and subscribed, July 16th, 1847, before
JOHN BINNS,
U. S. Commissioner.

E. Hicks Jones, a witness for libellant, declaring himself conscientiously scrupulous of taking an oath, was duly affirmed, and did declare and say: I am in the basket and variety business, No. 18 north Second street. On the 23d April, 1846, there was a bill of goods sold at my place to C. B. Bowman. This paper C is a correct copy of our original entries. The original entries are in my handwriting. These articles were sent to Wm. B. Jones and Co. They were sent

there by order of Mr. Bowman. Mr. Jones's is a dry goods house in 2d street. There was, on the 28th April, 1846, a bill of goods sold at my store to G. H. Fowler. This paper D is a correct copy, made from our book of original entries. The original entries are in my handwriting. These articles were collected by the drayman. I did not see these articles afterwards, to my knowledge. I saw some wooden ware; but I can't tell whether they were from me or not. I saw them at Mr. Bolton's warehouse. Those articles which I saw were similar to the articles stated in Fowler's bill, except the baskets. I saw no baskets at all; nor did I find any of the articles embraced in Mr. Bowman's bill. I saw several barrel churns; more than two. They were injured by being soaked in the water; all of them that I saw there. The water darkened the wood; and that would injure the sale about 50 per cent. I saw a dozen painted pails there, like those I sold to Mr. Fowler; they were injured; *it* the water had taken off the paint from the inside, and discolored them, so as to injure the sale of them about 50 per cent.; I don't recollect that I saw any varnished pails.

Cross examined by Mr. McMurtrie.

A churn is not put into the water when it is used. They do put hot water in them to scald them out when they make butter in them. The painted pails were made to put water in. I say a week's use of these pails would wash the paint out of the bottom; it is put there for show. I don't know what it would cost here to paint the bottom of a pail; it would cost a mere nothing where they are made. It is of the commonest kind of paint; it's a question whether it would be paint; I don't know what it would cost here to put on as good a material as was in the inside of the pails

E. HICKS JONES.

Affirmed and subscribed, July 16th, 1847, before
JOHN BINNS,
U. S. Commissioner.

E. T. Deacon, a witness for the libellant, declaring himself conscientiously scrupulous, was duly affirmed, and did depose and say: I am a hatter in this city. On the 6th May, 1846, I sold a bill of hats to Ziba Bennett. This bill E is a correct copy from my book of original entries. I sold all the articles mentioned in that bill myself. I myself made the original entries, and also this bill E. I can't say whether I sent the articles to Mr. Jordon's, or whether his drayman called for them. I saw these hats afterwards at Mr. Bolton's warehouse; I suppose in about a week or two after I sent them. The hats were very wet and muddy, and out of shape, and mashed a good deal. I repaired them, but they were not then as good as they had been. My bill for repairing them was twenty-five dollars [and] fifty cents. This bill included also one dozen hats, bought elsewhere by Mr. Bennett. He bought them at Wilkinson's, in Third street, opposite the

City hotel. I suppose those hats were worth about 20 per cent. less after I repaired them, than they were when I sold them originally. Mr. Bennett paid both those bills.

Cross examined by Mr. McMurtrie.

I took nothing from this bill E for cash. These were what we call water-proof hats, but they were not mud proof. The water takes the finish off, and spoils the trimmings, and that and the mud injures the nap.

E. T. DEACON.

Affirmed and subscribed, July 16th, 1847, before
JOHN BINNS,
U. S. Commissioner.

Richard G. Stotesbury, a witness for the libellant, who, declaring himself conscientiously scrupulous, was duly affirmed, and did depose and say: I am a member of the firm of Stotesbury & Ayres, saddlery hardware merchants in this city. On the 30th April, 1846, we sold a bill of hardware saddlery to W. L. Waller & Co., of Berwick. This paper G is a bill of the articles sold. That is a correct copy from our book of original entries; I made this copy. The original entries were made by Mr. Ayres. These articles, I think, were collected; don't know where they were sent. I saw them afterwards in Mr. Bolton's store, soon after they were damaged. They had been damaged by water; I can't exactly say the extent of the damage; 50 per cent.; it was fully that; I gave, not particularly, an examination; I looked at them as they lay there; I made a sufficient examination to enable me to judge of the damage; I don't know what became of them afterwards.

Cross examined by Mr. McMurtrie.

When I speak of the quantities and prices I rely entirely upon the books; I did not make those entries; those were all common articles, none of them plated; if these things had been taken from the wharf and carefully dried, the damage would have been 50 per cent., make the best of them.

RICH'D G. STOTESBURY.

Affirmed and subscribed, July 16, 1847, before
JOHN BINNS, *U. S. Comm'r.*

A. John Binns, comm'r, July 16, 1847.

PHILAD'A, *May 5th*, 1846.

Mr. Ziba Bennett, bought of Conrad & Roberts, importers of hardware, No. 123, north 3d street, above Paca st.

1 doz.	Richards' canal shovels	-	-	6 75
2 "	Ames' round points, 10 25	-	-	20 50
3 "	" back strap, 10 25	-	-	20 50
1 "	" plain back	-	-	9 50

½ doz.	York mills, 10 00	5 00
98 lbs.	log chain, 7½	7 35
5 cwt.	Swedes steel, 5 25	26 25
7/12 doz.	English round point shovels, 4 50	2 62
385 lbs.	wagon boxes, 4	15 40
110 "	Dearborn " 5	5 50
½ doz.	hand-bells, 6 75	1 94
No. 1, 12 pr.	traces, 50	6 00
2, 6 "	" 60	3 60
3, 3 gro.	bed-screws, 2 00	6 00
4, 1 doz.	sets castors, E, 1 87, 2 25	4 12
5, 1 "	screw pullies, 45, 65	1 10
6, ½ "	spring chains, 2 25	1 13
7, 6 "	knives and forks, 60	3 60
8, 6 "	" " 65	3 90
9, 6 "	" " 90	5 40
10, 4 "	" " 1 85	7 40
11, 2 "	butchers' knives, 1 10	2 20
12, ½ "	" " 2 25	1 12
13, 2 "	shoe " 95	1 90
14, 1 "	American "	95
15, 6 pair	carvers " 56	3 36
1 doz.	best horse cards	1 25
50 lbs.	brass kettles, 44	22 00
	Cask	75
6 pairs	wagon traces, 3½ feet, 56	3 36
		$200 45

B. John Binns, comm'r, July 16, 1847.

Messrs. Fincher & Thomas, bought of John Gilbert & Co., wholesale druggists, 179, N. Third st.

2 doz.	but. oil, 37½	75
2 "	opodeldoc liq., 87½	1 75
2 "	camphor, 45	90
1 gal.	turpentine, (jug 25,) 63	88
1 doz.	oil spike	37½
1 "	Wentz's worm syrup	2 00
1 "	Harlem oil	37½
12 lbs.	alum, 4	48
8 "	borax, Am., 18	1 44
2 "	indigo, 1 10	2 20
2 doz.	castor oil, 75	1 50
5 "	saltpetre, 9	45
	Box	37
		$13 47

C. John Binns, comm'r, July 16, 1847.

PHILADELPHIA, *April* 23, 1846.

Mr. C. B. Bowman, bo't of E. Hicks Jones, No. 18 N. Second st.

½ doz. flat baskets,	9 00	4 50
¼ " " "	7 50	3 75
¼ " square "	7 50	1 88
¼ " " "	6 00	1 50
1 " children's	1 00	1 00
a " rattles		25
		$12 88
Off 5 per cent.		64
		12 24
Balings		31
		$12 25

D. John Binns, com'r, 16, 1847.

PHILADELPHIA, *April* 28, 1846.

Mr. G. H. Fowler, bought of E. Hicks Jones, No. 18 north Second street.

2 barrel churns, 2 25	4 50
1 dozen painted pails,	2 12
1 " varnished "	2 50
1 gross clothe pins,	18
	$9 30

E. John Binns, com'r, July 16, 1847.

PHILADELPHIA, *May 6th*, 1846.

Mr. Z. Bennett, bought of E. T. Deacon.

1 dozen B, No. 1 hats,		$33 00
¾ " B, No. 3 " 28, nett		18 67
1 " japanned wool, 6 } 5 off		5 70
½ " sporting do 6 }		2 85
		$60 22

F. John Binns, com'r, July 16, 1847.

Mr. Z. Bennett, to E. T. Deacon, Dr.

To cleaning, refinishing, and trimming 20 fur hats, at 70 cts.,		14 00
To " " " 12 do 75		9 00
To " and putting tips in 18 wool do		1 00

1 new box and repairing two others, - - -	1 00
Drayage from and to the wharf, - - -	50
	$25 50

G. John Binns, com'r, July 16, 1847.

PHILADELPHIA, *April 30th*, 1846.

W. L. Waller & Co., Berwick, Columbia county, Penn'a, bought of Stotesbury and Ayres.

1 piece No. 2 webb, - - - - -	55
2 " 3 " 60 - - - - -	1 20
1 " red worsted, - - - - -	1 37
2 " japanned terretts, 45 - - - -	90
1 " pad hooks, - - - - -	45
2 sets japanned mounting, 1 00 - - -	2 00
2 gross Ra. Lig. buckles, ea $\frac{6}{4}$8 and $\frac{7}{4}$ - -	2 70
1 " " " " $\frac{6}{4}$ - - -	75
$\frac{1}{2}$ dozen japanned bitts, ea. 68 and 112, -	90
$\frac{1}{2}$ " pr. wood hames, 6 00 - - -	3 00
$\frac{1}{2}$ " pr. japanned 4, 5 00 - - -	2 50
$\frac{1}{2}$ " trim stirrups, 1 25 - - - -	62$\frac{1}{2}$
1 " 1$\frac{3}{4}$ japanned cockeyes, - - -	50
16$\frac{3}{4}$ feet patent leather, 18 - - - -	3 02
Box, - - - - -	25
	$20 72

July 14th, 1847.

James M. Vance, a witness, sworn and examined on the part of the libellant, deposes and says: I am in the establishment of Dilworth and Branson; they are in the hardware business in Philadelphia; June, 1846, that house sold a bill to Ziba Bennett; it was sold on the 5th May. The paper A, I now present, is a correct bill of the articles sold; it is in the handwriting of Mr. Levering; it was copied from these original entries; it has by me been compared with the original entries; the original entries are in the handwriting of Samuel Branson, by whom the goods were sold. They were packed by Patrick McCann; the delivering part I am not certain of. They were collected from our store by Jordon and Bro.; I saw these articles in the package, after the sale at the store; I was there when they were packing; Mr. Samuel Branson is now at Cape May; I know the handwriting in the book to be in his handwriting, except the last items. After the delivery of these goods I did see them, or some portion of them; at Mr. Bolton's store I saw a portion of them, and the balance at the adjoining store below; the exact day I cannot say; I should suppose it was about the 12th May; they were then in very bad condition, completely wet through. The

consequence of that wetting was to damage the goods very much; I did make an estimate of the damage done to the goods; to the best of my judgment it amounted to 50 per cent.; we took the goods out of the packages; when we found them there was a portion of them out; there *were* a portion of them unpacked before we were notified that the goods were injured; we took them out of the packages and opened the original papers; we let them remain there for a day or two, for the purpose of drying, to preserve them as much as possible from rust; then we repapered them and repacked them. After that I cannot say what became of the goods, after they were repacked; we made no charge at all for the work and labor we bestowed upon them. Mr. Bennett has paid the bill.

Cross examined by F. W. Hubbell, esq.

The prices in that bill are cash prices, less 5 per cent. We would have to deduct 5 per cent. from the bill to make it cash prices. In papering them we did not take them to our store; after we had repacked them, we left them at Mr. Bolton's store.

JAMES M. VANCE.

Sworn and subscribed, July 14th, 184 , before
JOHN BINNS,
United States commissioner, D. C.

Horace F. Colcord, a witness for the libellant, sworn and examined, deposes and says:

I am in the establishment of Richards and Bispham, auctioneers. I do not know that any articles were sold by Richards and Bispham that had been taken from the Judge Royer after she had been sunk. This paper, B, is a true and correct copy of the original entries from the rough sales' book. I was present at the sale of those articles; they were sold on the wharf, I think it was Mr. Bolton's. I made the entries in the rough sales' book myself at the time of the sale on the wharf. The prices which the articles brought were correctly set down in that sale book. I have compared the paper B with the original entries; the sale was held by order of James M. Bolton. The sale took place May 27th, 1846. I do not know where the goods came from; they were there on the wharf, and we went and sold them at public auction. The sale had been advertised. I could not specify the time. Three days is the regular time to advertise.

Cross examined by Ferd. W. Hubbell, esq.

I have not a copy of the advertisement; we do not keep them; we then advertised in the United States Gazette, North American, Pennsylvanian, the Inquirer, and I think, the American Sentinel had it in, which was then an afternoon paper. I am not aware that any notice was given to the Steam Towboat Company.

HORACE F. COLCORD.

Sworn and subscribed, July 14, 1847, before
JOHN BINNS,
U. S. commissioner, district ct.

Adjourned to the 15th, 10 a. m.

July 15th, 1847, parties present.

In compliance with a request made by the counsel for the libellant, the counsel for the respondent delivers to him a letter, signed A. Vanderslice, and dated Philadelphia, May 18th, 1846.

William B. Frishmuth, sworn and examined as a witness for the libellant, says:

The title of our firm is Frishmuth and Brothers. We carry on the manufacture of tobacco, segars, and snuff, in the city of Philadelphia. In the spring of 1846, we sold some tobacco to Fincher and Thomas. They live in Columbia county, not a great ways from Catawissa. It was sold April 25th, 1846. The amount of our bill was $95 02. This paper is a bill of the goods bought at that date. It's a copy. This copy was taken from the original entry. I compared it with the original entry, and it is a correct copy. My brother sold those goods. The copy of the bill is marked A. I think a portion of those goods went by the railroad. They did not all go by the boat. I think I recollect his directing us to send a portion by the railroad. I cannot tell what proportion, but it was only a small portion of the goods went by the railroad. I saw these articles after they were sold in a store; that is, in our own store. I put them up, and packed them, and marked them. That portion which was not sent by the railroad was sent to Bolton's wharf. The grocer generally collects all the different kinds of goods. I did not see these goods afterwards. My brother seen them. He is out of town. Water injures the tobacco; it makes the segars good for nothing at all, after they have been sunk in the water an hour or two. It does not so seriously affect the other tobacco. Manufactured tobacco, that is, plug or chewing tobacco, as we call it. There was a barrel of smoking tobacco, which would be injured by the water just as much as the segars; would make it worthless.

Cross examined by Ferd. W. Hubbell, esq.

The chewing tobacco was in oak boxes. The segars were, one lot in a box; the other in a barrel; an ordinary flour barrel, an empty flour barrel. Put them in in hundreds, and pack them in tiers, about four or five tiers in a barrel. The bill is a six months' bill. Five per cent. off would make it cash prices. The gentlemen who purchased these has paid for them; I don't know what ultimately became of them.

WILLIAM B. FRISHMUTH.

Sworn and subscribed, July 15, 1847, before
JOHN BINNS,
United States commissioner.

Amos Taylor, a witness for the libellant, declaring himself conscientiously scrupulous of taking an oath, was duly affirmed, and did declare and say:

I am connected with the establishment of Platt, Hollingshead and Co., wholesale grocers in this city. In the spring of 1846 there was a bill of groceries sold by that house to Fincher and Thomas; they live at Catawissa, Columbia county. This paper, B, is a copy of the original entries in the memoranda book of Platt, Hollingshead and Co. I have compared the bill with the entries; a young gentleman in our counting-house, Peter Sides, sold the goods. I was not in the counting-house when the goods were sold. I do not know where they were sent to. I did not see them at any time after they were sold, or after they were damaged.

Cross examined by F. W. Hubbell, esq.

The original entries I cannot say in whose handwriting they are; the three per cent. deducted at the foot of the bill B makes it cash prices.

Again examined.

We received the cash for this bill immediately.

AMOS TAYLOR.

Affirmed and subscribed, July 15th, 1847, before

JOHN BINNS,
U. S. Com'r.

Guy L. Loomis, a witness sworn and examined for the libellant, deposes and says: I am engaged in the bookselling business at Third and Arch street; I find from our cash book of May 7th, 1846, Ziba Bennett paid us $84 74 for a bill of goods sold a few days previous; the article sold were blank books and paper principally; there was some cap paper, and some letter, and some envelope, or wrapping paper; his dryman called for them; I saw them afterwards somewhere on the wharf; I can't tell the no.; some store, it may have been, in Water stree; it was in the immediate neighborhood of the river; I do not recollec the name or number; some gentleman called in and requested to lok at them; I don't know his name; I would not know him if I wen to see him again; it was not many days after we sold the goods tha I saw the man; the goods were nearly spoiled; the paper of the blnk books, and cap and letter paper, having been wet in dirty water; Ido not know what became of the articles; I never saw them afterwars; we refused the lot at five dollars; we did not think it was worth it; here were some quills which were not entirely spoiled, and I offered hin three dollars for the lot, including the quills, for *what* he had paid us.

Coss examined by F. W. Hubbell, esq.

The gentlema who was in the counting-house where the goods lay, offered us the lot. Mr. Bennett was not there; the blank books were

all opened and scattered about; I opened a few of the individual books; I cannot say how many; the covers were off the most of them; the paper was open; having been wet, it burst the wrappers; I can't tell how many reams there were of foolscap; I don't think the cap paper was open; the letter paper was burst; it had broken its wrappers; the cap was tied with a string; the blank books were packed with the paper; the whole were in a case, and also the quills.

GUY L. LOOMIS.

Sworn and subscribed, July 15th, 1847, before

JOHN BINNS,
U. S. Com'r.

Samuel W. Earl, a witness sworn and examined for the libellant, deposes and says: In the spring of 1846 I was in the establishment of Geo. D. Wetherill & Co., druggists, in this city; that spring we sold a bill of goods to Ziba Bennett; this paper C is a copy of the entries of the goods sold and paid for; I have compared it with the entries, and have the entries here; I sold those articles; they were sent to Bolton's, on the wharf, above Arch; I never saw them after they were shipped; I believe no one from our house saw them; a number of those articles would be completely lost by water; alum, if left in the water a little while, would dissolve; the whole bill, except the white lead and oil, would be subject to a heavy damage; the water would injure the sale of the lead by discoloring the kegs; it might start the hoops.

Cross examined by F. W. Hubbell, esq.

I can't say how long it would take alum to dissolve; it would depend on how much water got into the barrel, the damage done; I never saw the inside of the barrel of alum; it was in the original packages; the pieces weigh from 15 pounds to ½ oz., and less quantities; there is no cover in the original packages, except the barre; it would take some length of time to injure putty; clean water would not hurt it for some days; Skenk's syrup would only injure by destroying the labels, which would injure the sale of it; Skenk lives in thiscity; part of the bill, the linseed oil, is cash price; the other part of the bill, I think, would require 5 per cent. to bring it to cash prices; I am strongly under the impression they are subject to the 5 per cent. discount; that bill has been paid, bought on the 5th and paid on the 7th May.

SAMUEL W. EARL.

Sworn and subscribed, July 15th, 1847, before

JOHN BINNS,
U. S. Com'r.

John Harding, jr., being conscientiously scrupulous of taking an oath, was duly affirmed on the part of the libellant, and deposes and says: I am a wholesale grocer in this city; in the spring of 1846 I sold a bill of goods to Mr. Fowler; it was sold on the 27th April 1846; Gilbert H.

Fowler was his name; this paper D is copied from the original entries; I have compared it, and find it a correct copy; I sold goods and made the entries at the time of the sale; they were sent to Bolton's, on the wharf above Arch; I saw the most of them afterwards, those that were returned; I saw them on the wharf and in the warehouse; I think it was Bolton's; they were in a wretched condition; I will state what I did not see, 4 lumps of sugar, 4 bags of coffee, a box of soap; the hhd. in which had been the N. O. sugar was returned to the wharf, and there might be 35 or 50 or more pounds of sugar; what sugar was left was sugar and water mixed; I could not tell the value of one item above, so accurately as I can the loss on the whole bill, having valued at the time in my own mind at a loss of about 85 per cent.; the barrel of brown sugar was in the same condition as that in the hhd.; the hhd. of molasses, the molasses looked like molasses and water; the chocolate was worth little or nothing, and the rice the same; the raisins ditto; the *cast-steel* soap was lost; the candles were damaged about 30 per cent.; they were covered with water and mud; I did not open them, nor [did] I see them opened; I took that valuation from a person who had valued them; I don't know who he was; I understood he was the person who made them; some of those articles were afterwards sold by auction; the coffee, lump sugar, and soap were lost; I had forwarded the remainder 2 hhds. of molasses, one box candles, and one box soap, valued at $47 53; I forwarded them to Mr. Fowler; all the other articles which were not lost were sold at auction.

Cross examined by Mr. McMurtrie.

The coffee bags did not come up, they were lost; so was the box of soap; a molasses cask is water-tight if no vent holes are in it, which, in this case there were, large ones, and they were out, and the water run in; we generally put in paper into those holes, so that they can be readily taken out to give vent to the molasses. If the coffee remains in the water 2 or 3 days, or less time, in warm weather; I recollect seeing some coffee on board of the boat, and it was totally spoiled, as black as a black hat; I never tried the experiment of drying coffee that had been wet; I have known coffee to be spread, and I suppose it dried.

Question. If coffee, having been wetted with fresh water for a short time, is spread out and dried, whether it may be saved?

Answer. It could be, but in a depreciated state; the water swells the grain and bursts the bag; I cannot tell how long it requires to produce that effect; the coffee I saw I considered totally spoiled, from having lain in the water and then exposed to the weather; the credit articles in this bill are $220 $\frac{1}{100}$, the cash articles $8 09; if Mr. Fowler had paid this bill I should have taken off 3 per cent.; he has paid; I looked into the molasses hhd. after the damage, and tried it with a stick; I should judge at that time part of the molasses was gone and filled up with water; the entries in red ink at the foot of the bill D are not in

my book of original entries; none of the entries in red ink in that bill are in my book of original entries.

JOHN HARDING, JR.

Affirmed and subscribed, July 15th, 1847, before
JOHN BINNS,
U. S. Com'r.

Peter Sides, a witness on the part of the libellant, being sworn, deposes and says: I am a clerk in the establishment of Platt, Hollingshead & Co. The witness being handed the paper B says, I sold that bill of goods to Fincher & Thomas; I sent the goods to Bolton's wharf, one of Girard's wharves; I did not see the goods after we sold them; the bill was sold 26th April, 1846; I did not see them at all after they were shipped; this bill B is in my handwriting, and so are the entries in the book; I compared them.

PETER SIDES.

Sworn and subscribed, July 15th, 1847, before
JOHN BINNS,
U. S. Com'r.

Edward Newland, a witness for the libellant, sworn and examined, deposes and says: I am a dealer in looking-glass and picture frames; my place of business is at No. 218 N. Second street; on the 5th May, 1846, I sold a bill of goods to Ziba Bennett; this paper E I copied from the book of original entries; I sold the articles and made the entries; these goods were sent [to] James M. Bolton's; I saw them a day or two afterwards, after the time of sale; it was 2 or 3 days; a very few days after the time of sale; I saw them again at J. M. Bolton's store; the vaneers and mahogany frames were all peeling off; in short they were worth nothing; the whole amount they were worth when I saw them the second time was $9 $\frac{81}{100}$; I saw some pictures there; they were covered with the preparation which had been on the frames round them, so that you could not distinguish the subject; there were five pictures; we did not sell the pictures; we packed them; I could not say what they were worth; I don't think I paid that particular attention that I could determine the price; they were in oil.

Question. Can you tell whether they were worth one dollar or ten dollars?

Answer. I cannot fix a value upon them; I have been paid the amount of my bill.

Cross examined by Mr. McMurtrie.

The items in the bill E, excepting the gilt picture frames, were mahogany-framed looking-glasses. A looking-glass plate 24 by 14 we sell for two dollars; with a frame around looking-glass plate 22 by 13, is $1 44; ditto, 20 by 12, would be $1 20, and ditto, 17 by 10½, 50 cents; do., 16 by 10, 48 cts.; do., 14 by 9, 40 cts.; 14 by 10, 44-100.

These are the prices of square glasses of this size. The articles in this bill, E, were square plates. There was a deduction of 5 per cent. on the articles sold by me for cash, as the bill states. We cannot replace the vaneer on a frame after it is made; when it is perfectly saturated it is not worth the trouble; the glasses were broken in many instances; I don't know what became of them; when I first saw them the lid was off, but the pictures and glasses remained as I packed them.

EDWARD NEWLAND.

Sworn and subscribed, July 15, 1847, before
JOHN BINNS, *U. S. Commissioner.*

W. B. Hart, a witness sworn for the libellant, deposes and says: The title of our firm is Js. H. and W. Hart; we are in the grocery business in Philadelphia. In the spring of 1846 we sold a bill to W. L. Waller & Co., of Berwick, Pennsylvania; it was sold May 18, 1846. This paper, F, has been made out from our book of original entries; it is a copy; it was made out by our book-keeper, and then I re-examined it, and found it to be correct. This paper, marked F, embraces copies of our book of original entries in relation to the sales of goods for five different concerns, viz: Messrs. Wm. L. Waller & Co., Berwick, Columbia co.; Messrs. Rickerts & Stewart, Orangeville, Columbia co.; Robert McCoy, Washingtonville, Columbia co.; J. A. Sands—I don't know his residence, it is somewhere in Columbia co.; Edward Hughes, Cherryville, Lycoming co. This bill of Rickets & Stewart's was sent to order, I think, but cannot say positively; I usually attended to such things; I attended to this order of the bill of Waller & Co.; I would say exactly the same; Robt. McCoy's bill was a portion of a larger bill which was to have been sent before, but was neglected, and we sent it to Bolton's; I can't say who sold this bill at all, positively; I know it was sold and sent; the bill of J. A. Sands was sold, and the money was paid, and it is so marked on our book; I think the bill to Hughes was sold to order, or whether he was in town; I do know that all those articles were sent to Bolton's; we have their receipts for them. I paid a visit to Bolton's after the accident, and remember to have seen two articles, a bbl. of rice and loaf sugar belonging to Waller & Co., and that was completely worthless; it was not worth any thing, I should think; the bbl. of molasses belonging to Sands—syrup it's called in the bill—I did not knock the bung out, but I should judge it could not be much damaged; it was a tight barrel, and the water could not get into it much, I suppose. These were all the articles that I remember I saw. We took no interest in the matter, as there was no difficulty about our receiving payment for them; we have been paid for them, every item in full.

Cross examined by Mr. McMurtrie.

As to the matters which I did not see on the wharf, I did not see the packages in which they had been. The original entries from which

paper F is copied is in the handwriting of our book-keeper; I don't know that I am able to state the quantity and prices of the goods sold of which I have been speaking, except from the book of entries; I am guided entirely by the book of entries.

WILLIAM B. HART.

Sworn and subscribed, July 15, 1847, before
JOHN BINNS, *U. S. Commissioner.*

William J. Burkhart, a witness for the libellant, sworn and examined, deposes and says: I am in the establishment of Thos. M. Smith, who is in the iron business in this city; I was in his employ in May, 1846; I know that, on the 5th May, 1846, we sold a bill of iron and steel to Ziba Bennett. This paper, G, was by me copied from the book of original entries; it is a correct copy; I am not positive whether it was sold by Mr. Smith or myself; the original entries are in my handwriting; the goods were sent to J. M. Bolton's.

Cross examined by Mr. McMurtrie.

These are credit prices on the bill; we took off 4 per cent. from that bill, and it was paid.

WM. J. BURKHART.

Sworn and subscribed, July 15, 1847, before
JOHN BINNS, *U. S. Commissioner.*

James Tyson, a witness sworn and examined for the libellant, deposes and says: In the month of April, 1846, I was in the establishment of Scull & Thompson, grocers in this city; on the 30th April, 1846, I sold a bill of goods to George Zinn; I made the original entries, and this paper, H, is a correct copy made by me; the goods were sent to Js. M. Bolton's, directed to George Zinn, of Harrisburg; I saw the bale of tobacco and the barrel of molasses afterwards at Mr. Bolton's, a few days after the sale was made; the tobacco was very much injured; I should suppose it was almost worthless; it had been injured by exposure to water; the molasses *were* uninjured; I do not know what had become of the other articles mentioned in that bill; I was not requested to go to Bolton's; I went from curiosity.

Cross examined by Mr. McMurtrie.

The bill was sold for cash, that is, 3 per cent. from the bill made it cash price; the bale of tobacco was cavendish chewing tobacco in pound lumps; I opened, or rather found that bale opened, it was a linen bale; I think a barrel of molasses or syrup will not float in water.

JAMES TYSON.

Sworn and subscribed, July 15, 1847, before
JOHN BINNS,
U. S. comm'r.

A.—John Binns, com'r, July 14th, 1847.

PHILADA., *5th May*, 1846.

Mr. Ziba Bennett, bought of Dilworth & Branson.

1 doz.	4 pr. L. H. forks, 750 900	-	9 00
½ "	4 D. handle, E. 11, 26 -	-	8 25
1 "	Rowland spades, $2 00	-	7 50
½ "	L. H. shovels, 7 00	-	3 50
1 "	Ames " 4 00	-	12 00
1 "	" " 5 00	-	13 00
1 "	" " 6 00	-	14 00
2½ "	R'ed points, 10 00	-	25 00
4 "	back strap, 10 00	-	40 00
1 "	Wilson mills - -	-	2 25
20 yds.	18 link No. 6 coil chain, 16	-	3 20
120 ft.	18 " " 3 8½	-	10 20
64 lb.	log chain, 6½ - -	-	4 16
1 ream	best glass paper, -	-	3 50
6 pr.	5½ No. 221 bn. clocks, 45	-	2 70
3 "	" 100 " 55	-	1 65
2 "	bn. ha. fire irons, E. 67 83 2 3	-	3 00
3 "	carvers ea., 5225, 400 42 63½ -	-	3 13
½ doz.	spittoons, 2 25 - -	-	1 13
½ "	2 T. P. lamps, 1 50 -	-	75
½ "	50 lb. steelyards by oz. 6 00	-	3 00
1 "	1 hole traps - -	-	22
½ "	parlor, 1 50 - -	-	75
½ "	carpet hammers, 1 25 -	-	31
½ "	" " 2 38 -	-	1 19
½ "	claw, 3 25 - -	-	1 62
½ "	turning web saws, E. 375 450 24, 30	-	4 13
½ "	G. S. compass, 13, 2 25	-	1 12
2 "	ra. brs. stair rods, E. 83 87½ 92 22, 24, 26 -	-	5 25
½ "	ball braces, 4 50 -	-	2 25
½ "	brs. snuff trays, 1 75 -	-	88
½ "	brs. drawer hdls., 50 -	-	1 50
½ "	" snuffers, 1952, 2 00	-	1 00
3 "	" butts mid, E. 32 38 44 ⅞, 1, 1⅛	-	3 42
1 "	" " " 64 75 100 1½, 1¾, 2	-	2 39
3 "	" pat. table butt, E. 38 49 45 1¼, 1⅝, 1½	-	3 75
3 "	" butts, E. 34 53 2, 2½	-	3 44

3 doz.	butt 3 71			2 13
		168 177		
8 "	L. J. Parliament, 5½, 6			27 60
½ "	steel squares, 2 ft. by 2, 1 00			3 34
8 "	spiral blind fastened wood, 1 75			14 00
8 "	No. 1 black latches, 85			6 80
5 "	No. 2 " " 95			4 75
		200 300		
½ "	screw drivers, E. 10, 12			2 50
1 "	6 in. compass			1 00
2 "	C. S. firmer ass'd, 2, 2 00			4 00
1 "	gimlet bitts, ass			1 00
1 "	2 blade knives, 6 85			2 00
		200 450		
½ "	" " " ea. 1435, 2793			3 25
		200 350		
1 "	scissors, ea., 427 9833			5 50
		188 212		
½ "	3 whl. castors, ea. 3, 4			2 00
½ "	No. 4 " brs. whl., 3 75			1 88
½ "	japanned door knockers, 4 50			2 25
	Forward,			288 14
1 doz.	sheep bells			1 75
½ "	Lowell closet locks, 2 75			1 38
1 "	Nashua " 11			3 38
½ "	mortice, 3 R. K., 8 50			4 25
½ "	M. R. & Co., 3 R. K., 1900			9 50
6 "	2½ 3 key'd till locks, 45			2 70
1 "	2¾ 12 " " " brs., 47			2 00
		112 100		
1 "	trunk locks, ea. 10, 18			2 12
		83 90		
1 "	1 whl. pad'd, ea. 2¼, 2½			1 73
1 "	2¾ 1 04			1 50
1 "	2½ tumbler, 1 12			2 38
1 "	5 No. 60 rim locks			7 50
		800 100		
½ "	" " " " ea., 6, 7			9 00
		3½ 4½		
50 M. R.	tacks, ea. 4, 6			3 93
75 M. R.	tacks, 8 oz., 4½			3 38
		4½ 6		
25 "	ea. 10, 16			2 69
		92 122 162		
3 doz.	pat. brads, ea. 1, 1¼, 1½			11 28
1 gro.	brs. stair rod eyes			1 20
½ doz.	metal hd. gimlet, 5 25			1 75
1 "	Monroe pencils, 2 00			50
2 "	⅝ brs. thread esentin, 67			1 34

1 doz. knobs, 1 95	- - - - -	1 20
½ " " 1 92, 1 88	- - - - -	94
6 " ¾ screws, 4, 16	- - - - -	96
3 " ¾ " 2, 16	- - - - -	48
6 " ¾ " 5, 17	- - - - -	1 02
25 27		
4 " ¾ " ea. 8, 9	- - - - -	2 08
2 " ¾ " 4, 20	- - - - -	40
6 " ¾ " 6, 22	- - - - -	1 32
6 " ¾ " 7, 24	- - - - -	1 44
2 " 1 " 7, 28	- - - - -	56
6 " 1 " 8, 29	- - - - -	1 74
6 " 1¼ " 8, 33	- - - - -	1 98
34 37 39		
4 " 1¼ " E. 9, 10, 11	- - - - -	4 40
4 " 1½ " 14, 59	- - - - -	2 36
2 " 1½ " 11 ra. ha. blued, 57	- - -	1 02
1 card screws, no charge.		
49½ 67		
3 tea trays, 23, 26	- - - -	3 88
6 doz. 1½ Am. frame pulley, 44	- - -	2 64
2 casks, 3 boxes	- - - - -	1 25
28 lbs. sash cord, 19	- - - - -	5 32
		$398 39

B.—John Binns, U. S. Com'r, July 14, 1847. Sales by Richards and Bispham, auc., acc't whom it may concern, by order of J. M. Bolton.

PHILAD'A, *May* 22, 1846.

Geo. Zinn.—1 bbl. sugar, 81 — 18 = 63, 4½	- -	2 84
1 keg pepper, 34 — 6 = 28, 1½	- -	35
1 an. cassia, 11 — 3 = 8, 12	- -	96
1 bbl. rice - - - -	- -	13
Bennett.—1 hhd. sugar, 784 — 140 = 644, 2½	- -	15 30
1 " 611 — 140 = 471, 2½	- -	10 60
1 " 890 — 140 = 750, 2½	- -	20 62
1 tierce rice, 552 — 55 = 497, ¾	- -	3 73
Indigo, 21, 12½	- - - - -	2 63
Cassia, 14, 6 - - - - -		84
Paper, 3, 72½ - - - - -		2 18
" 10, 17½ - - - - -		1 75
Fowler.—1 keg ginger, 38, 3	- - - -	1 14
1 box chocolate - - - -		30
2 boxes raisins, ea. 35 - - - -		70
1 bbl. cigars - - - - -		50
1 " tobacco - - - - -		2 50

1 hhd. sugar, 349 — 140 = 209, 31		6 79
Not marked, 1 hhd. sugar, 445 — 140 = 305, 24		7 63
Fincher & T.—1 hhd. sugar, 689 — 140 = 549, 27		15 88
Fowler.—1 barrel sugar, 248 — 22 = 226, 17		4 24
Bowman.—2 box. tea, 292 — 36 = 256, 31		8 96
Fowler.—1 bbl. rice, 217 — 20 = 197, 1		99
Not mk'd, 2 tubs cigars		1 00
Flinck & T.—1 bbl. cigars		60
1 " tobacco		1 00
		$114 06
Commission duty, } paid {	$5 70	
Weig. &c., } paid {	3 79	
		9 49
		$104 57

A.—John Binns, com'r, July 15, 1847.

PHILAD'A, *April* 25, 1846.

Messrs. Fincher and Thomas, bot. of Frishmuth and Brother.

1 box ¼ rolls, 172 — 30 = 142, 14	20 59
" ¼ " 174 — 33 = 141, 12	17 62
1 bbl. Amr. cigars, 6000, 1 75	10 50
2 " half Spanish, 9000, 3 50	31 50
1 " cut tob., 15, 45	6 86
1 box cav. tob., 19, 2, 17, 35	5 95
1 " pipes	1 00
Bbls	1 00
	$95 02

B.—John Binns, com'r, July 15th, 1847.

(Copy.) PHILAD'A, *April* 25, 1846.

Messrs Fincher and Thomas, bot of Platt, Hollingshead, & Co.

1964	
1 hhd. sugar, 152, 1112 wt., a 6	72 28
1 " S. H. molasses, 130 gal., a 31	40 30
1 " " 126 " a 26	32 76
1309	
8 bags Rio coffee, 26, 1,283 wt., a 8	185 84
1 keg ground pepper, 36 wt., a 12 k. 20	4 70
1 keg alspice, 10 wt., a 16, k. 15	1 75

½ box chocolate, 25 lbs., a 14		3 50
1 keg rifle powder, a 2¼		2 25
1 bag shot, a 1 55		1 55
Porterage		1 25
		$266 18
Less 3 per cent.		7 98
		$258 20

C.—John Binns, com'r, July 15, 1847.

Mr. Ziba Bennet, bought of Geo. D. Wetherill & Co.

5 kegs, 500 h. pure lead, $8 50		42 50
10 " 500 " " "		42 50
20 " 500 " " "		42 50
		$127 50
10 per cent.		12 75
		114 75
1 bbl. alum, 300 lbs., 3¼		9 75
2 bbls. whiting, 364 and 368 = 732—36 = 696 lbs. nett ¾		5 32
1 keg, 100 lbs., saltpetre		7 50
108 lbs. chalk, in lumps, ½		54
1 keg, 25 c., 137 lbs. putty, 2¾		4 02
10 lbs. gr. cassia, 22		2 20
5 " cloves, 34		1 70
15 " span. indigo, 110		16 50
1 doz. Skenk's syrup		8 00
1 cask linseed oil, 142 gal., 61 c. cash		86 62
Porterage		75
		$257 65

Philadelphia, May 5, 1846.

(Copy.)

D.—John Binns, commissioner, July 15, 1847.

Philadelphia, *April* 27, 1846.

Mr. Gilbert H. Fowler, bought of John Harding, jr.

1 hhd. N. O. sugar; sold 1165—139 = 1026 lbs. at 6¾	$69 25
1 bbl. brown do; bbl. 25 c.; sold 249—18 = 231 lbs., at 5¾	13 53
Lost 4 lumps ditto, 29 lbs., at 11 c.	3 19
3 bags green Rio coffee; total loss, 327—6 = 321 lbs. at 8½	27 29
2 bags prime do; total loss, 319—6 = 313 lbs. at 8¼	25 82
25 p. 1 hhd. sup. molasses; sent 128 gals. a 31 c.	39 68

50 p. 1 hhd. com. molasses sent 80 gals. a 22 c. - -	17 60
Sold ¼ box Lapham No. 1 chocolate, 25 lbs. 14 c. -	3 50
Forw'd 1 box white scented soap, box 20 c., 54—7 = 47 lbs., at 7 - - - - - -	3 49
Sold 1 bbl. S. C. rice; bbl. 25 c., 236—17 = 219 lbs. at 4½	10 11
Sold 70 c., 2 boxes M. R. raisins, a 2⅔ - - -	4 75
Lost 1 box cake castile soap, 15 lbs., a 8½ - -	1 87
Sent, sal'ble, 1 box dipped candles, box 20 c; 74 lbs. a 8½	6 49
Porterage on sundries, collected 30th - -	50
Porterage on sundries, collected 5th May, -	
And the above goods - - - - -	2 00
	$229 07

Forwarded 2 hhs. molasses; 1 box candles; 1 box soap; 1 do. lost; 1 crate Queensware; lot tubs, &c.

E.—John Binns, commissioner, July 15, 1847.

Mr. Ziba Bennett, bought of E. Newland & Co., No. 218, N. 2nd st.

1 gilt ornamental picture frame, 4½ N. O. G., 39—25					8 50
Packing box for five pictures - - -					2 50
1 mahogany lkg. glass, 24—14 - - -				3 50	
1 fancy round " 22—13 - - -				3 00	
2 " " " 20—12 - - -				5 00	
2 " " " 17—10½ - - -				3 50	
2 " " " 16—10 - - -				3 00	
3 double bevals " 17—10½ - - -				4 12	
3 N. D. bevals " 16—10 - - -				3 37	
2 N. D. bevals " 14— 9 - - -				1 75	
2 beval and bard " 14—10 - - -				1 50	
				$28 74	
			5 off	1 44	27 30
					$38 30

Philadelphia, May 5, 1846. Paid May 7.

F.—John Binns, U. S. commissioner, July 15, 1847.

PHILADELPHIA, *May* 7, 1846.

Messrs. Ricketts & Stewart, bought of J. H. and W. B. Hart.

1 barrel crushed sugar, 232—15 = 217 lb., a 10½, bbl. 25 $23 04

PHILADELPHIA, *May* 18, 1846.

Messrs. William L. Waller & Co., bought of J. H. and W. B. Hart.

1 bbl. rice, 220—136 = 84 lbs, a 4¾ bbl., 25 - -	$4 24
118 lb. loaf sugar a 11½ - - - - -	13 57
	$17 81

PHILADELPHIA, *May* 2, 1846.

Mr. Robert McCoy, bought of J. H. and W. B. Hart.

1 bag Rio coffee, 163—2=161 lbs. a 8½ c.	-	$13 68
2 sacks fine salt, a 160	-	3 20
1 do. coarse salt	-	1 35
		$18 23

PHILADELPHIA, *May* 6*th*, 1846.

Mr. J. E. Sands, bought of J. H. and W. B. Hart.

1 bbl. honey syrup, 34 gallons, 40 c., and bbl. 125	-	$14 85
1 bag Rio coffee, 161—2=159 lbs., a 8½ c.	-	13 51
Porterage	-	12
		$28 48

PHILADELPHIA, *May* 7*th*, 1846.

Mr. Edward Hughes, bought of J. H. and W. B. Hart.

1 keg sal æratus, 77 lbs., a 4¼ c., and keg 25	-	$3 91
2 bags Rio coffee, 322—4=318 lbs., a 8½ c.	-	27 03
1 keg copperas, 64 lbs., a 2½ c., and keg 25	-	1 85
2 barrels, No. 2 mackerel, a $6 25	-	12 50
Porterage	-	50
		$45 79

G.—John Binns, commissioner, July 15th, 1847.

PHILADELPHIA, *May* 5*th*, 1846.

Mr. Ziba Bennett, bought of Thomas M. Smith.

4 bundles 1 in. Am. hoop iron, 2 0 00, 6	-	$12 00
4 " 1¼ do. do. do. 2 0 00, 6	-	12 00
1 " ⅞ by ¼, scroll iron, 1 0 00, 4¼	-	4 75
20 " 1/16 by ¼, James H., nail rod, 10 0 0, 5	-	50 00
15 " spring steel, ¼, 2 and 2¼, 18 0 22, 6½	-	118 27
Porterage	-	75
		$197 77

H.—John Binns, commissioner, July 15th, 1847.

Copy.

PHILADELPHIA, *April* 30*th*, 1846.

George Zinn, bought of Scull and Thompson.

1 hhd. sugar, 141, 1,047 wt., 6¼	-	$68 05

1 bbl. Lou. syrup molasses, 33 gals., 55, (bbl. 125) -	19 40
1 do. N. O. do. 39½ do., 31 - - -	12 25
326	
2 bags Rio coffee, 6, 320, 8 - - - -	25 60
1 lb. nutmegs - - - - - -	1 63
1 keg gr. pepper, 25, at 12½, keg 20 - - -	3 32
1 do. cinnamon, 10, 35 " " - - -	3 70
67 lbs. Cavendish tobacco, 28 - - - -	18 76
1 keg gun-powder tea, 18½, 75, keg 20 - - -	14 07
1 keg black tea, 9, 62½, keg 20 - - - -	5 83
160	
1 bbl. lump sugar, 24, 136, 11½, bbl. 25 - - -	15 89
68 lbs. rice, 5 - - - - - -	3 40
1 box Castile soap, 20, 13 - - - - -	2 60
Porterage - - -	50
	$195 00

Depositions of witnesses taken before C. F. Heazlett, commissioner to assess damages under decree of court, February 21, 1850.

W. H. Rawle, esq., for libellant; R. C. McMurtree, esq., for respondent.

(Mr. McMurtree objected to any new testimony, the testimony having been closed.) A and B.

Edmund H. Frishmuth, being affirmed, says: I am a member of the firm of Frishmuth and Bro., No. 105 N. 3d street; I remember disposing of tobacco, &c., to Edward Hughes and Gilbert H. Fowler, the latter April 25, 1846, and Mr. Hughes May 7, 1846; copies now produced are copies of books of original entries; the prices are the credit prices, 6 mo., 5 pr. c. for cash; I am not positive where the goods were sent; the majority of the goods are collected by grocers; I saw part of Mr. Fowler's afterwards in Mr. John Harding's 3d story; I did not, to my knowledge, see any of Mr. Hughes'; I duplicated Mr. Fowler's bill afterwards in part; I saw this lot of Mr. Fowler's about the time of the accident, about May; I should say that the articles were worthless; I did not see any lot but Mr. Fowler's at Harding's, and the reason why they were there was, I suppose, because Fowler dealt with Harding. Mr. Hart probably collected Mr. Hughes' goods, and Mr. Harding those of Mr. Fowler, and if this was the case we cannot show receipts that we delivered the goods.

Cross examined.

I made the entries in my book to the best of my knowledge. Some of the goods I saw might have been dried, and might have been worth something; there is nothing so injurious to tobacco as smoke and water; the smoking tobacco and segars were entirely worthless, (Mr. Fowler's bill.) These were the only items I saw that I can speak positively about; all that I saw was worthless; I can't say the amount of the bill

I duplicated to Fowler without referring to the book; it was less amount than this.

EDMUND H. FRISHMUTH.

Taken, sworn, and subscribed, Feb. 20, 1849.

CHAS. F. HEAZLITT, *Comm'r.*

Wm. B. Hart, recalled. My firm is James H. and Wm. B. Hart, 229, N. 3d st.; I can't say whether I did, in May, 1846, collect tobacco for Edward Hughes; if there was any groceries sold to Hughes, there is a strong probability we collected the bill of tobacco; I don't
C. know that this is certainly the fact; I did not look at this; I sold the bill of goods to Mr. Waller; this is a correct copy of our books of goods sold to him on that date, April 30, 1846, $50 30; I have a
D. distinct recollection of the bill to Ricketts & Stewart, May 7, 1846, $23 04; these goods were sent to Bolton's wharf, above Market street; I went to take a general look at the damage done by the sinking of the boat; I remember seeing what I took to be the remains of this rice and loaf sugar; this was on the wharf in front of Bolton's; it was within a few days after the sinking of the boat; I went at the first opportunity to gratify my curiosity; the coffee would not, I think, be recognisable any how; the water would swell the coffee to an increased bulk, and burst the bags; this is my experience as a grocer; if coffee was in water two days, I should suppose the bags would burst, and the coffee be distributed in the bottom of the vessel; I don't remember the box of candles; these candles were dipped candles; the damage would be more of appearance than reality; the sugar and rice were total loss; rice is just as bad as sugar, if but a few hours in the water; I did not see goods belonging to any other person to take sufficient interest in them. Bills annexed.

Cross examined.

I did not make the entries in the book; our book-keeper entered them, and made out the copies and examined them with the books; when I speak of sales being made, I speak from the entries in the books; these bills have been settled for, and neither of those persons are debtors for those bills; I have no recollection of having made the sales except from the books; my impression is, that they were both orders by letter; I could ascertain the fact; if the coffee was taken out the water in a few hours, it would be damaged in appearance; it would swell the grains double the size; even the dampness through the sides of the vessel would damage it; so surveyors tell us; coffee, slightly damaged, is rendered rather unsaleable; I can't give any estimate of the damage; I did not see the state of the coffee to recognise it.

Re-examined.

I have no doubt that these bills were sold to those gentlemen; we have no claim upon them; they have paid.

WILLIAM B. HART.

Taken and subscribed, February 21st, 1850.
CHARLES F. HEAZLITT, *Comm'r.*

Edmund S. Hall, being duly affirmed: I am in the employment of Stroop & Brother; I was in Mr. Cheesboro's employ up to August, 1846—Mr. Cheesboro', No. 5, N. wharves;
E. and F. Harris & Fisk. I sold the bills of goods to Mr. Geo. Zinn on the date they are dated, May 1st, 1846; I have compared these two bills with the original entries; I made the entries; they were delivered to Bolton's on the wharf; I did not see these goods afterwards; these goods were delivered to Mr. Bolton the same day; these were cash prices.

Cross examined.

I have no knowledge of the delivery of these goods, except by the delivery mark on the book made by myself.

Re—I made the mark at the time of delivery, and I have no doubt that these goods were delivered to Bolton's.

EDMUND S. HALL.

Taken, affirmed, and subscribed, February 21, 1850.
CHAS. F. HEAZLITT, *Comm'r.*

Peter Rovoudt, being duly sworn: The bill of Mr. Hughes, queensware, May 7, 1846, $15 81, is copied from our books of original en-
G. tries; I can't say who made the entry; it was either my brother or one of our clerks; the goods were delivered to a porter for the grocer's, there is no doubt of it on my mind; I saw them afterwards on the wharf, Bolton's wharf; those of Mr. Fowler's I had opened by some of our men; they were both in the same boat, I understood; Fowler's and Hughes' had the appearance of being wet, inside and outside; I did not see the inside of Hughes'; I made out a statement of the damage done to Mr. Fowler's; I have not a copy of it; I suppose the damage to be from 15 to 20 per cent.; what Hughes' would be I don't know.

Cross examined.

Some articles that were perishable were mounted with tinware; the goods sold to Mr. Hughes were not mounted with tin; they were all queensware, properly speaking, crockery or glass; it don't do these articles any good to have them wet; fresh water don't hurt these, except the risk of breakage, and require to be cleaned; salt water ruins them; I should be very glad to clean them at 15 to 20 per [cent.,] and make money on them; I now speak of those we sold to Mr. Hughes; I don't know who sold the goods; I might have done it myself, and it might have been sold by others; there are three or four of us sold goods.

Re-examined.

These bills are paid; there were some of Mr. Fowler's goods brok-

en; some that had not tin mountings; I included this in the estimate of 10 or 15 pr. [ct.]

PETER ROVOUDT.

Taken, sworn, and subscribed, February 21, 1850.

CHAS. F HEAZLITT, *Commissioner.*

Francis Jordan, recalled. Bill to Mr. Ziba Bennett, May 4,
H 1836, $906 98 is a correct copy of our book of original entries; I sold the bill at the time it bears date; this is the same bill that I proved once before, before Mr. Binns.

Admission of libellants.

It is admitted by the libellants that two half chests of tea, 127 lbs., at 56 c. pr. lb., $71 12, were not on the boat Judge Royer, and are to be deducted from the amount of this bill.

Cross examined.

I did not make the entry in my books.

Re-examined.

Mr. Wolf, one of my clerks, made the entry; Mr. Wolf is now in my store.

FRANCIS JORDAN.

Taken and subscribed, February 21, 1850.

CHARLES F. HEAZLITT, *Commissioner.*

James Shields, being duly sworn: My firm is Shields and Miller; my impression is that the bill of goods to Mr. Waller was sold on an
I order; the bill is dated May 22, 1846, $5 75; it is a copy from our book of original entries, which were, I think, made by myself; I don't know whether Mr. Hart collected the goods, or whether they were sent to Mr. Bolton; I saw the goods after the accident; the goods were not of a perishable nature, but the sale of them were injured; I should think the damage to them was in the neighbor-
J hood of 15 per [cent.;] my impression is that they looked as if they leaned up against something and were marked.

Cross examination declined.

JAMES SHIELDS.

Taken, sworn, and subscribed, February 21, 1850.

CHAS. F. HEAZLITT, *Commissioner.*

Samuel C. Henszey, being duly affirmed: I was in the employ of C. H. and George Abbott in April, 1846; I sold the bill of goods
K April 23, 1846, to Jacob Fisher, of Harrisburg, $20 80; these goods were sent to the store of John S. Fitchett, in Market street;
I did not see these goods after the accident; I don't know where they

went to from Mr. Fitchett's; this is a correct copy from the book of original entries; I examined every article or item; I don't know that these things were put on the "Judge Royer."

No cross examination.

SAM'L C. HENSZEY.

Taken, affirmed, and subscribed, February 21, 1850.

CHAS. F. HEAZLITT, *Commissioner.*

Joseph R. Bolton, recalled. I recollect the bill of goods from Dulty and Jones for Judge Bennett; sent to the store of Jas. M. Bolton, 2 boxes of boots and shoes; they were shipped on board the "Royer;" I saw them after the accident; they were sent up to Mr. Coolidge to be repaired, in connexion with a bill he had sold to be cleansed; I recollect some paper from Jas. M. Wilcox to Judge Bennet, shipped on board the "Royer;" I did not see it afterwards; I recollect a bill from Tho. M. Smith to Judge Bennet, a number of bars and packages of iron and steel; they were shipped on board the "Royer;" I seen them afterwards; I examined them on the wharf after they were returned from the boat; we estimated the damage at 20 per [cent.;] a gentleman [by] the name of Parish was aiding me in discharging and arranging the goods; Mr. Parish is from the country, and I don't know where he is now; I have not seen him but once since the accident; he and I estimated the loss at 20 per [cent.;] I think we examined some candles that were shipped to Judge Bennett; the boxes had been in water for 36 to 48 hours, and were very wet; I should suppose they were damaged to the amount of 20 per [cent.]

Cross examined.

I have been engaged in buying iron and steel; I have bought considerable on orders; I have never been engaged in the business; the steel was in bars for manufacturing; the basis upon which we estimated the damage at 20 pr. [cent.] was, that iron generally damaged to very considerable extent; I think there *was* a few bundles of hoop iron, but I am not positive; the damage took place in consequence of being in the bottom of the boat; I don't mean that the water will soak into the iron, but the water will get in between the iron and form a rust; this rust will strike into the body of it; it will not injure steel so much, except it be spring steel, and then it will injure it to a considerable extent; it is not customary to expose iron at the doors; a man that would expose the better qualities of iron must be partially insane; the iron that you see exposed in the street is common blister'd steel; the candles were tallow candles; I don't think I am as good a judge of the damage to those candles as a man who was in the business all his life.

JOS. R. BOLTON.

Taken and subscribed, February 21, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Adjourned till Monday next, 4 p. m.

Monday, February 25, 1850.

Present, Mr. Rawle, for libellant; Mr. McMurtrie, for respondent.

Thomas J. Wolf, being duly affirmed, says: Books of original entries of Jordon and Brothers produced. (Ziba Bennett's bill.) Bill marked H shown witness, who says, I have compared this bill, and it is correct; I made the entries at the time they bear date.

Cross examination declined.

THOMAS J. WOLF.

Affirmed and subscribed, February 25, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Ephraim T. Deacon, recalled: Being shown bills marked L. M., witness says, they were for hats sold to Mr. Bennett; they are copies of books of original entries; amount of both $60 22—5 and 7 May, 1846; I saw these goods afterwards, when they were brought up in the boat that was sunk and raised; I don't know the name of the boat; it was at Mr. Bolton's warehouse; it was the boat that had Mr. Bennett's goods on; the bill marked N, is the amount that was paid me for repairing those hats, but I don't think this was the damage by any means; I consider they were damaged from 10 to 15 pr. [cent.] beyond that amount.

Cross examination.

These hats were damaged by the linings and trimmings being destroyed, and refinishing was necessary.

E. T. DEACON.

Subscribed February 25th, 1850.

CHARLES F. HEAZLITT, *Com'r.*

Robert D. Wilkinson, being duly sworn: Bill marked O is the bill I sold Mr. Bennett; in my book I think the entry is on the 30th April; I think I must have dated this bill at the time he paid it; the bill is correct—amount and the articles; I can't say where the goods were sent to.

Cross examined.

I never heard about the loss before, that I recollect of.

R. D. WILKINSON.

Taken, sworn, and subscribed, Feb. 25, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Edward Newland, re-examined: I sold a bill to Mr. Bennett, $38 30. Bill marked P shown witness. Examination continued till next meeting.

John S. Fitchett, re-examined: I don't remember a bill of hardware from C. H. and Geo. Abbott sent to my store; on the 27th April, we

sent some goods to Jacob Fisher, to Mr. Bolton's; there were 3 boxes included in this receipt of Mr. Bolton's which were not sold by me; the one marked with a pencil is the one we sold; I don't know from whom the others came. Receipt marked Q.

Cross examined.

I did not see these goods delivered; I did not see this receipt signed; I know nothing of the delivery to Bolton's except this receipt; it is the usual custom to give the goods to the drayman, and he takes the goods and brings the receipt to the store.

JOHN S. FITCHETT.

Subscribed February 25, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Adjourned till Wednesday, 4 p. m.

Wednesday, February 27, 4 p. m.

Present, Mr. Wm. H. Rawle; for libellant, Mr. McMurtrie, for respondent.

Theadore Davison, being duly affirmed: I am a clerk in the employ of Edwin Coolidge; copy marked R is a true copy of book of original entries; I never seen the boots afterwards, or when they were cleaned.

Cross examined.

I think Mr. Tute, a salesman, made the entries; I was not in the store at the time these entries were made; I was absent from town.

THEODORE DAVISON.

Taken, affirmed, and subscribed, Feb. 27, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Manly Rowe, being duly sworn: My place of business is 63, N. 3d. street. I sold a bill of goods, dated April 16, 1846, to J. K. Sharpless, $13.41; bill marked S is a copy of my original entries; I made those entries; I did not see the goods after they were sold, that I know of; I don't know where they were sent to. I have no doubt we have a mem. of where they were sent.

Cross examination declined.

MANLY ROWE.

Taken, sworn, and subscribed, Feb. 27, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Jacob S. Baum, being duly sworn: I am in the employ of Ludwig, Kneedler & Co., and was so in 1846. The house sold a bill of goods to Heffley and Mendenhall, April 29, 1846, $480 24. I made the entries; I can't tell where those goods were sent to; I am not in the habit of delivering goods; I am a book-keeper; bill is marked T.

Cross examined.

I made these entries from the information given to me by a clerk. I don't know who sold the goods.

J. S. BAUM.

Taken, sworn, and subscribed, Feb. 27, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Adjourned till Tuesday, 5 March, 1850; 4 p. m.

1850, Mar. 5. Exit sub. for E. G. James, J. S. Sparry, and P. H.
$1 03 Lockman; Lower and Barrow; A. G. Stein; John Burk and
1 43 Co.; Potts, Linn and Harris; S. A. Lewis; Robinson, Collins
$2 47 and Co., to wit:

Tuesday, 5 March, 1850. Present, Wm. H. Rawle, esq., 4½ o'clock.

Rodolphus Kent, being duly sworn, deposes and says: I have the book of original entries of John Brock and Co., now here. Abm. Miller is charged under date of 1 May, 1846, 4 boxes candles, 228 lbs., 8½ cts., $19 38. Those goods were delivered to J. M. Bolton on the 2d May, 1846. I did not see these goods afterwards. They were sold from the establishment of John Brock & Co.; I am one of the firm of John Brock, Son & Co.

RODOLPHUS KENT.

Sworn and subscribed, March 5, 1850.

CHAS. F. HEAZLITT, *Com'r.*

John A. Neff, being duly sworn, says: I am in the employ of Mr. Buehler and Bros. Book now produced is book of original entries. There is entered C. B. Bowman, April 21, 1846, $198 24. This is a cash bill; another May 5, 1846, $10 76; this is also a cash bill. The entries were made by a young man now in Pittsburg. I made the extensions, and made out the bill. The bills are correct; I never saw the goods afterwards.

JOHN A. NEFF.

Taken, sworn, and subscribed, March 5, 1850.

CHAS. F. HEAZLITT, *Com'r.*

A. G. Stein, being duly affirmed: Books now produced are my books of original entries. Fincher and Thomas, April 28, 1846; $40 50. These entries were made by me; I sold the goods; I have no evidence where the goods were sent to; I did not see these goods afterwards, but I sent my young man afterwards to Bolton's store to have them re-packed, or rather what was left of them. I don't know who collected them. The goods were queensware, &c. Bill marked U is a copy.

A. G. STEIN.

Sworn and subscribed, March 5, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Edward G. James, being recalled, says: The book I have before me is the book of original entries of Jas. M. Bolton. Copy of bill marked V, April 24, 1846, to Mr. Geo. Masters, is a correct copy. The entries in the bill are in my writing; I sold the bill. Copy of bill marked W, April 27, 1846, is a correct copy of bill to John Sharpless. I made a portion of the entries; I commenced to make them, and was probably called away to something else, and they were completed by Mr. Wan. I have not a doubt but what the bill was paid the next day, as I have receipted it.

EDW'D G. JAMES.

Taken and subscribed, March 5, 1850.

CHAS. F. HEAZLITT, *Com'r.*

William W. Wan, being duly sworn, and shown the entries referred to by the last witness, says: The 3 last lines of the date of April 27, 1846, in fact all the entry not in Mr. James's writing, are in my writing.

W. W. WAN.

Taken, sworn, and subscribed, March 5, 1850.

CHAS. F. HEAZLITT, *Com'r.*

John S. Sparry, being duly sworn, says: Book now produced is the book of original entry of Jas. M. Bolton, deceased. I turn to date April 29, 1846. Copy of bill now produced, and marked X, is a correct copy, with the exception of the addition of one barrel No. 2 mackerel, which Fincher & Thomas received; and the bill for $17 is the amount of the first; the second was $6, and was paid May 1, 1846. The bill for $17 was paid April 29; second bill Y.

JOHN J. SPERRY.

Taken, sworn, and subscribed, March 5, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Edward G. James, recalled: Under entry of May 5th, 1846, books before referred to, 6 barrels No. 2 mackerel to L. B. Rupert; the price is not carried out; I believe the price to be $5 75 per barrel—making $34 50. I have no doubt but what this bill is paid; I have no doubt that the price I have named is the price at which the things were sold; we often leave the price blank, so that one purchaser may not see that which another pays.

EDWARD G. JAMES.

Taken and subscribed, March 5, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Adjourned till Monday, 11th instant, 4 p. m.
Monday, March 11th, 1850, 4 p. m.
Present, Mr. W. H. Rawle, Mr. R. C. McMurtrie.

Samuel A. Lewis, being duly affirmed, deposes and says: Book now produced is my book of original entries. I find, at May 7, 1846, a bill of cotton yarn to Edward Hughes, $17; it was ordered by Mr. Hart, on account of Edward Hughes. The order was not sent to me direct by Mr. Hughes; it was afterwards paid by Mr. Hughes—some time afterwards. These goods were sent to Mr. Hughes, and I never saw them afterwards. The entries are in my handwriting.

Cross examined.

Cotton yarn becomes tender by being wet; it becomes tender very soon.

Re-examined.

It ought to be dried within a week after injury; I generally make it a point to sell wet cotton yarn immediately.

Re-cross examined.

A great objection to cotton yarn being wet for 48 hours, is that it might make it unsaleable to a country dealer; it would stain it; a manufacturer might want it, and it would not injure it for the purpose of dyeing.

S. A. LEWIS.

Taken, affirmed, and subscribed, March 11, 1850.
CHAS. F. HEAZLITT, *Com'r.*

George P. Russell, being duly sworn, says: Bill to J. K. Sharpless, April 20, 1846, is a true copy of original entries of Robinson, Collins & Co., $95 60; I made the original entries; bill marked Z; I do not know where these goods were sent to; I delivered them myself; the same collector that received all these persons' goods collected these; there was one drayman collected all the goods; I never saw the goods afterwards; many of these goods, by being wet, would be a total loss; the greater portion of them would be a total loss.

Cross examination declined.

GEO. P. RUSSELL.

Taken, sworn, and subscribed, March 11th, 1850.
CHAS. F. HEAZLITT, *Com'r.*

Adjourned till to-morrow, at 4 p. m.
Tuesday, March 12th, 1850, 4 p. m.
Mr. William H. Rawle for libellants.
Mr. McMurtrie for respondents.

William S. Lower, being duly affirmed, says: I am one of the firm of Sower & Barrow, 174 north Third street; we sold the bill of goods to Mr. Edward Hughes, copy of which is annexed; I made the entries myself; it is an exact copy, and dated 7th May, 1846, $20; the goods, I think, were sent to A. G. Catell; I *seen* these goods afterwards; I think there was a bundle of sickles sent to the store in a wet condition; they were wet, damaged, so much so that we concluded nothing could be done with them; they were sent back to Hughes, or who ever sent them to us; they were damaged about 50 per cent.; I would not have taken them at that; I suppose a storekeeper would be willing to sell an article of that kind for one half.

Cross examined.

These goods were wet, disfigured; I should consider the scythe blades injured 50 per cent. by being wet and rusted; wet don't hurt them if they are not rusted; they were rusted as a matter of course; scythes were bundled up in wet straw, and, perhaps, they had been laying in wet straw for weeks; I do not know of any attempt being made to dry them, and take off the rust.

Re-examined.

I don't know that these things lay in the wet straw for weeks; from their appearanse I should judge they had so been in wet straw for weeks; it may have been both scythes and sickles.

WILLIAM S. LOWER.

Taken, affirmed, and subscribed, March 12, 1850.

CHAS. F. HEAZLITT,
Commissioner.

Joseph R. Bolton, recalled. I went down to the Judge Royer as soon as information reached the city of the occurrence of the accident; I think it was on Friday about noon; I went down immediately after dinner; I staid until night; nothing was done that afternoon; the boat was lying in 10 feet water; if any of the goods had been removed I would have known it; I went down early next morning; I eat my breakfast at the Point-house; I spent the entire day there and in the neighborhood, endeavoring to recover the goods which floated away; I helped to recover them; the goods which I recovered I took to a frame building and locked them up in a shed; we took all there without reference to the amount of damage; we did not abandon any of the goods, because we thought them so damaged as to be worthless; in the afternoon the tide was favorable, and we got the boat up where the tide would leave her at low tide; when we left in the evening it was low water, and the deck was clear of water, but the water was floating around her; there were then goods under the hatches, under the deck; the hatches were off; they floated off; they were not secured in such a manner but what they floated off; there was at least

four feet of water in the hold at low tide; I went away that evening after sunset; I came in the last boat; Mr. Vanderslice and his men remained with the boat that night; the next day was Sunday; hard work all that day; I hired some men and took a boat from my brother's wharf about 8 o'clock, a. m.; we got there and commenced discharging the Judge Royer; about 9 o'clock we found Vanderslice and his men, the same as we left the night before; we removed as many goods as we possibly could from the Royer into the other boat, and continued till near night; the other boat was a first class canal boat; she was, I judge, as large a boat as the Royer; the boats were alongside of each other when we were discharging; I don't recollect the state of the tide when we went in the morning; one boat lay close to the side of the other all the time we were discharging; there was no space by which any goods could drop through into the water, unless it should be some very small article; I left towards evening; all the goods were not then transhipped; the principal reason of which was that they were too heavy to be transhipped from one boat to the other, such as hhds. of molasses; when I left I left both boats in the care of the men and went down the next morning, Monday; took the goods which we had collected the Saturday previous from the shed, and brought them, together with both boats, up to the city; I think it was noon or a little after noon by the time we got up here; all the goods were taken out of the shed; the shed was the best means of security we had at the time; it was dry; the the hhd. of molasses, &c., were brought up in the Royer; when the boats came up to the wharf, many of the goods, if not all, were put in store; some of the articles that were most liable to injury, such as hardware, &c., were sent to the persons from whom they were purchased; some were cleaned in the store; I believe every care was exercised in the preservation of the goods that the circumstances would admit of; I superintended the unloading of the boats; I examined the packages and opened them when I thought necessary; if I thought it would tend to the preservation of them I opened them; I had two rooms in Stroop's store; the garretts or upper room of my brother's store; the floors were covered with goods drying; such articles as we thought were very perishable in their nature, and too far destroyed to be recovered, were sold at auction; Richards and Bispham sold them; notice was given to the president of the Towboat company of the time and place of sale; the proceeds of sale were paid to Captain Vanderslice; I think I collected it for Captain Vanderslice; I paid to him for salvage of the goods; there was an estimate made of the salvage of the goods which were received; I made some of the estimates; they were made at the time or within a few days after. Mem. marked A, 2, 3, 4, 5, 6, 7, 8, 9 are, memoranda made by me at the times they bear date. Mem. marked A 10, is in my handwriting; this mem. was made from moneys paid at the time it was made; I was present at the time of the settlement; at the time of the payment of these items, I think I made a memorandum of the damage which the goods had sustained at the time, but I have mislaid it; I made other memoranda than those which I mislaid; I made a

copy, and classified them, to the different persons to whom the goods belonged, as soon as I could ascertain from whom the goods were purchased. My object in that was to have their assistance in assessing the damages, and in a number of instances I had that assistance; and in those cases where I had not their assistance, I assessed a value upon them, based on my own judgment, aided by those in the particular trade to which the goods belonged. Where I had not any to assist, I done the best I could as a business man, to the best of my understanding. Some of the goods were afterwards repacked and shipped to the consignees; I can't say that, according to the best of my knowledge and belief, that all the goods were re-packed that were taken from the Judge Royer; I can't say that nothing was taken away; I was not there during the night; in the day time there was nothing taken away; I think I did not remove any coffee from the Judge Royer; the bags were all bursted and the coffee strewed in the bottom of the boat; many goods floated out of the boat, some of which were caught 6 or 7 miles below there on the river shore; there were 3 or 4 wagon loads of goods that we caught down at Howell's fishery, and a number of articles below these, (and the fishermen informed us.) Objection by respondent to hearsay. I superintended the removal so far as to say, that all the goods which were not lost were returned to my brother's wharf; a few days afterward some fishermen from the neighborhood of Wilmington brought some goods that they had found floating along the beach; they claimed salvage, which was paid by Capt. Vanderslice; I took charge of several packages, one of which was a box of dry goods; these goods were put in the store and subjected to the same appraisement; when I was unable, a few minutes ago, to give a positive answer to the question, "whether, to the best of my knowledge and belief, all the goods were returned to Bolton's which were not lost," it was because I was not there during the night. Mem. marked B, shown witness, he says, this is a memorandum made by me at the time of the appraisement; on looking at the mem. of goods of Geo. Zinn, I find a barrel of fish lost; there were some barrels of mackerel brought up; there were some barrels stowed under deck; the larger portion was on deck; there was not any mackerel on deck when I went down to the boat the first time; I know there were some hides that were very wet, completely saturated with water; considerable smell about them; bundle shown witness, who says, I made all the memoranda contained in that package, and the sight of these papers refreshes my memory; I recollect seeing a barrel which had contained sugar, but there was none in it; it was purchased from J. H. and W. B. Hart; the sugar was consigned to Ricketts and Stewart; I recollect drugs that come from the establishment of Robinson, Collins & Co.; I think they were sold to Wm. L. Waller, but I don't pretend to say exactly. Mem. handed witness; I find here a copy of a receipt in my handwriting; J. K. Sharpless bought of Robinson, Collins & Co.; these goods were put in store with the other goods; opened and being mixed up together in such a manner, they became offensive and they were thrown away; I did not see any tubs

or buckets for Mr. Sharpless from Manly Rowe's establishment; there was a box of looking glasses and mdze. generally, to Geo. Weaver; I think the looking glasses were sent to Mr. Newland's to be repaired; but in regard to the other articles I think they were so much injured as not to be worth anything; mem. of coffee and salt to Robert McCoy, (Hart, vendor.) My memory as refreshed is: I recollect seeing salt sacks in the boat which were probably one-fourth full, but so much injured as not to be worth preserving; the coffee had gone, in a general mass, in the bottom of the boat; the bags had bursted; I do not recollect seeing any salt or fish belonging to Geo. Masters.

Mr. Rawle admits that one barrel of herring, belonging to Mr. Masters, was afterwards received, tho' in a damaged condition.

(Hart, vend.) Mem. of goods to J. E. Sands; the bag of coffee, I presume, went in the general mass; I have no knowledge to the contrary; the barrel of honey was saved; the whole bill is $28 48; the honey $14 85; portg. 12½; the coffee was lost and the honey saved. Mem. of goods to Edw'd Hughes; the amount of bill of tobacco for Frishmuth is $25 94.

Admission.—Mr. Raule admits that the bill for queensware of Mr. Rouvoudt was rec'd by Mr. Hughes; the tobacco was injured in part; snuff lost. The value of the tobacco, after the injury, was $15 28; damage, $6 60; snuff, $4 06; making total damage, $10 66. The scythes, sickles, and cotton yarn, I did not know from whom they came, but from the damage they had sustained, I considered them worth $16; I have put down Mr. Hart's bill a total loss, the damage $45 79, the amount of the bill. Mem. D. W. Gross bo't of Hartshorn; we estimated the damage done at 25 per [cent.]; this was done with the assistance of Mr. Sterritt, the clerk of Mr. Hartshorne; amount of bill $111 85; damage, 25 per [cent.]; mem. Jacob Fisher; bill of C. H. and Geo. Abbott, we estimated the damage at 50 per [cent.]; bill of John S. Fitchett, same damage, 50 per [cent.]; mem. Fincher and Thomas.

Adjourned till Friday, 3½ p. m.

Friday, March 15, 1850. Mr. Rawle being unable to attend, adjourned till Tuesday next, 19th inst., 3½ p. m.

Tuesday, March 19, 1850, 3½ p. m.

Present, William H. Rawle, esq., R. C. McMurtrie, esq.

Thaddeus H. Brown, being duly sworn, deposes and says: Book of original entries of Js. M. Bolton shown witness, who says, I was in the employ of Js. M. Bolton in May, 1846; the entries of goods to Vanderslice between the dates of May 7th and May 11, 1846, are in my handwriting; there don't appear to be any date to this entry, but as the goods sold are posted into another book the same day the sales were made, and the date was right in that book, when a person wished any article a memorandum was made in the book before me, and shortly after, say within a day, or as soon as the book-keeper would

have leisure, these entries were transferred to the day-book; I see the entry is journalized here; I understood it was transferred to the day-book. Still it is the same thing. The journal is an intermediate book between this and the ledger. These entries were made on the instant that the goods were sold; in fact, as the goods were sold. In looking over the book, I find that the dates of entry are generally put down. I should think that these goods should come under the last date on the book; these should come between the 7th and 11th; those are the dates immediately preceding and following this entry. Bill to Captain Vanderslice:

8 bushels of oats, a. 45	$3 60
1 " of corn,	68
Storage boat Judge Royer,	23 76
½ bbl. No. 1 mackerel,	6 00
Total,	$34 04

Cross examined.

There is no date opposite to the entry; I have no recollection of the sale, or of prices or items, except from this book. There is no entry of a date on these two pages, the one preceding the entry and the page on which this entry was made. The item storage is charged in lieu of wharfage; it is for expenses in taking care of the boat. In this case it is charged upon goods that have been received by Bolton, to be shipped by that vessel. I am not aware that this item has been paid by Captain Vanderslice or his consignees; I did not keep the cash book; I could tell, perhaps, by referring.

T. H. BROWN.

Sworn and subscribed, March 19, 1850.

CHARLES F. HEAZLITT, *Com'r.*

Patrick Tute, being duly sworn; book of Edwin Coolidge, now produced, is the book of original entries. Entry May 5, 1846; Ziba Bennett; I made the entries.

Cross examination declined.

PATRICK TUTE.

Taken, sworn, and subscribed, March 12, 1850.

CHARLES F. HEAZLITT, *Com'r.*

Claudius B. Lynn, being duly sworn: I was in 1846 a member of firm of Potts, Lynn and Harris, Market street, above 5th; drug business. Book now produced is book of original entries; we did on 30th April, 1846, sell a bill of goods to W. L. Weller & Co.; $34. The entries are in my writing; bill annexed, marked B 2, and is a correct copy.

Cross examination declined.

CLAUDIUS B. LYNN.

Taken, sworn, and subscribed, March 12, 1850.

CHARLES F. HEAZLITT, *Com'r.*

Joseph R. Bolton, recalled: I saw the Judge Royer shortly previous to her leaving the wharf; she was then equipped with her fixtures; they were of the usual character that the boats on the tide-water *boats* generally have; she had a set of lines, horse gears, canvass, poles, and the usual cabin furniture, beds and bedding. When I next seen her, after the accident, these things, or such as were there, were all wet; the poles had floated away; the beds and bedding were wet. I do not recollect any thing about the horse gears; the towing line was there, having been made fast to the boat; I did not see the canvass; it was an old canvass, but good; being a deck boat, the canvass was more particularly to cover the hatches; I do not know whether it would extend from stem to stern; I have bought for boatman, at sundry times, canvass of that character for $30; I hardly know what the horse gears, poles, beds and bedding would be worth, never having purchased any thing of the kind. If I was to fix a price at all, I would probably fix $15; they might be worth more. I do not recollect seeing any of the horse feed, oats and corn; if I did, it must have been so wet that I took no notice of it. The horse feed would not be worth any thing by being wet. Mem. Loss of Fincher and Thomas; mem. now in my hand was made at the time; I find on this a bill of Hollingshead, Platt and Co., for groceries, $258 20; the hogshead of sugar, such as was saved, was sold for $14 46; the molasses having had more or less water in it, was considered damaged to the amount of 50 per [cent.;] the keg of powder was saved; the rest of the articles became a total loss; Frishmuth and Brother's bill to Fincher and Thomas, I placed a value on what was saved, at $22 19; John Gilbert and Co. to F. and T., bill $13 47, total loss; bill of A. and G. Stein, crockery, damages estimated at 20 per [cent.,] the estimate was made by Mr. Stein and myself, I think; fish bought of James M. Bolton, $23, one barrel was saved, and the other two were lost; goods of W. L. Waller; Mr. Rawle; bill of Stotesberry and Ayres is proved by Mr. Stotesberry, damage one-half; Hart's bill is proved by Hart, total loss; Shields's bill for shovels proved by Shields, damage, 15 per [cent.;] Mr. Bolton, bill of Potts, Lynn and Harris, drugs, $34; I estimated the damages at that time, at $8 99 on that bill; I estimated the damage on Stotesberry on Ayres' bill, at 75 per [cent.] Mem. Goods to C. B. Bowman; Jordan and Bro's bill, $236 24, I assessed the damages at $139 38, I think Mr. Jordon assisted me in regard to the groceries in making this estimate; M. Buehler and Co's hardware bill, $198 24, the damage which we estimated at that time, was $108 36; Mr. Buehler assisted me in making this valuation; goods of John S. Fitchett to Bowman, $76 78, total loss; I could'nt find the goods to make any survey upon; the goods were shipped, but could not be found afterwards; bill of E. Hicks Jones, $12 55, baskets, total loss, we did'nt find the baskets; bill of Cooper and

Henderson, basket coach, damage, $1 50, the price was $2 75. Mem. Goods of Gilbert H. Fowler; bill of J. Harding, jr., groceries, $229 07; Mr. Harding helped to make this appraisement, the damage is assessed at that time, was $167 24; Mr. Rawle; for damage done to John Gilbert's and Co. bill, see Mr. Gilbert's deposition; see Frishmuth's deposition, bill of Frishmuth and Bro., $31 43; the damage, I assessed the value of the entire bill, $5 12, damage, $26 31.

Mr. Rawle. For the damage of hardware, M. Buehler and Co., $130, see Buehler's deposition; and for bill of E. Hicks Jones, bill of $9 20, see Jones's deposition; and for the damage to Mr. Rouvoudt's bill, $35 44, see his deposition.

Cross examined by Mr. McMurtrie.

(Mr. Rawle reserving certain questions as to other bills.)

The business or employment of J. M. Bolton was that of a general commission merchant at the time of this loss; his business was general commission business; he purchased any article he was ordered to purchase or consigned to him for sale as well as forwarding merchandise through canals; his business was almost all, say two-thirds, in forwarding goods and in produce; at the time of collision I was not in his employ at all; I was in his employ probably a year before; I was then employed as a general agent and broker; at different times I suppose I had been in his employ a couple of years, probably three of them, always in the same capacity; I served an apprenticeship with Thomas Ridgeway for some eight years; his was a general produce commission business; I was in the coal and general commission and produce business on the Schuylkill about ten years; I have not been in the habit during my life of dealing in drugs; the extent of my business has been in buying for my friends in the country who sent orders for drugs; I handed the order to competent druggists to put up; I have bought a good many picture frames at different times for myself or friends, and my experience has been confined to this; I never purchased for sale; the same answer will apply to manufactured hardware; in iron, I have dealt considerably, having sold considerable on commission, the raw material, pig, bloom, and bar iron; I have sold some lots of steel, not to the same extent that I have of iron; I have purchased large quantities of groceries on commission, and paid considerable attention to the different qualities of the different articles; friendship for Captain Vanderslice induced me to go down to the boat, he being in trouble down below, and if possible to render him such assistance as was in my power; I had been very intimate with Captain Vanderslice; I can't recollect the precise period; I suppose 15 years, perhaps longer; I recollect loading his boats when I was in business on the Schuylkill; what I received from the sale of the goods, if I received it, I paid [it] to Captain Vanderslice for salvage; Mr. Vanderslice was the only responsible person I knew in the business, and this was the authority I had for paying him, and the amount being collected at his request; it was paid for expenses in saving the goods, and that is what I mean by salvage.

Mem. A 3, is in my handwriting; Mr. Gross was a merchant at Harrisburg; I made the bill out at the request of Capt. Vanderslice; my data was, the expenses incurred by Mr. Vanderslice, in proportion to the amount of goods which Mr. Gross had on board; it was the best data that could be obtained at the time; I do not recollect the per centage calculated upon; I cannot speak of the amount of expenses incurred by Captain Vanderslice in saving the goods; I believe that whenever I had persons to assist me in making the estimates I have mentioned it in my examination; there may have been some omissions; I gave notice to the Towboat company's president of the sale; I think I left it at his counting house; it was in writing; the counting house was Sam'l C. Morton's, on the wharf, below Spruce street; I think I have received for my services altogether about $30 from Captain Vanderslice, for services rendered him in connexion with this accident; I have never rendered any claim; if I was to make any claim at all, I would make a claim for $100, and that would not be a full compensation; if it is a legal claim against the company, I do expect to be paid; those services were rendered to Captain Vanderslice; he has not told me that he would pay me out of the proceeds of this suit; I now make a claim for those services; I make the claim in this suit on the company; a large proportion of these goods were saved in a damaged state, and were not sold; they were sent to the different consignees; I have no claim against Captain Vanderslice; he has given me $30 at different times; his circumstances are such that I would not feel authorized in making any claim upon him; he lost all he had.

JOS. R. BOLTON.

Taken and subscribed, March 12 and 19, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Adjourned to meet on notice.

Monday, March 25, 1850, 4 p. m.; Mr. Rawle for libellants; Mr. McMurtrie, respondents.

O. H. P. Conover being duly sworn, says: Books of J. P. and W. B. Conover are now here; they are books of original entries, entries 5 May, 1846, mdze. Z. Bennett, are in my handwriting; I made them at the time they bear date; $70 62, off for cash $3 53, $67 09.

Cross examination declined.

O. H. P. CONOVER.

Taken, sworn, and subscribed, March 25, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Thos. Kirkpatrick, being duly sworn, says: The book now before me is the book of original entries of J. T. Kirkpatrick & Co., entry 24 April, 1846; hides to William Bird $181 56; these entries are in my handwriting, and were made at the time they bear date.

Cross examined.

The prices charged are the cash articles; these hides were paid for in leather, as the entries show; the price of these things if sold for cash would be the same as they are charged.

THOS. KIRKPATRICK.

Taken, sworn, and subscribed, March 25, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Samuel D. Powell, being duly sworn, says: I am clerk in the employ of J. H. and W. Hart, and was so in April and May, 1846; bill Robert McKoy, 2d May, 1846, $98 92, groceries; the entries are in my handwriting, and were made at the time they bear date. Cross examination declined. $18 23 only went on board the Royer, says Mr. Rawle.

The bill of Ricketts & Stewart, 7 May, 1846, $23 04, entries are in my writing; bill annexed B 2; bill of Edward Hughes, 7th May, 1846, $45 79, entries in my handwriting; bill to Wm. L. Waller & Co., 16 May, 1846, $17 81, entries in my writing; bill to J. E. Sands, $28 48, groceries, date 6 May, 1846, entry in cash book is in my handwriting.

Cross examination.

The prices are not all credit prices. The bill of Robt. McCoy is cash price; Ricketts and Stewart credit prices, 3 pr. c. off for cash; Edward Hughes's is a credit bill, 3 pr. c. off for cash; Wallers's is also a credit bill, 3 pr. c. off; and J. E. Sands's is a cash bill.

S. D. POWELL.

Taken, sworn, and subscribed, March 25, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Wm. Ayres, being duly affirmed, says: The book before me is a book of original entries of Stotesbury and Ayres, entry 26th May, 1846, to Wm. L. Waller and Co. for saddlery hardware $20.97. The goods were sold and entered by me.

Cross examined.

These were six months' prices, 5 pr. c. off for cash. The goods were purchased on time.

WILLIAM AYRES.

Taken, affirmed, and subscribed, March 25, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Adjourned till Wednesday, 4 p. m.

Wednesday, 27th March, 1850, 4 p. m.

Present, Mr. Rawle, Mr. McMurtrie.

Joseph Knight, jr., being duly sworn, deposes and says: Books now

produced are books of original entries of Conrad & Roberts; entry May 5, 1846, Ziba Bennett, $200 45. These entries are in my handwriting; the articles are hardware.

Cross examined.

These are the credit prices; 5 per cent. off for cash.

JOSEPH KNIGHT, Jr.

Taken, sworn, and subscribed, March 27, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Manly Rowe, being recalled, says: Bill May 4, 1846, $71 22, to Z. Bennett, handed witness, who says this bill is a copy from my book of original entries, and they were made at the time they bear date; I made the entries; the goods were sent to Bolton's. Bill annexed B 3.

Cross examined.

These are cash prices; the bill was paid at the time, cash; the tubs and buckets are intended to hold liquids; there are some brushes and wire not intended to be used in water; the wire would be almost ruined by being wet; nearly all the wood ware is intended to be exposed to water.

Re-examined.

I never saw these bills afterwards.

MANLY ROWE.

Taken and subscribed, March 27, 1850.

CHAS. F. HEAZLITT, *Com'r.*

G. L. Loomis, being duly sworn, says: I was a member of the firm of Loomis & Peck; book now produced is our cash book; entry 7th May, 1846, $84 74, to Mr. Ziba Bennett; these entries are in my handwriting.

Cross examination declined.

G. L. LOOMIS.

Taken, sworn, and subscribed, March 27, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Rodolphus Kent, being recalled, says: Book now produced is the receipt book of John Brook & Co.; received, June 10, 1846, of Messrs. John Brook and Sons and Co. twenty-four $\frac{76}{100}$ dollars, in full for the salvage on goods saved from the boat Judge Royer, on account of Abm. Miller, $24 76.

Signed, ANTHONY VANDERSLICE.
For JOS. R. BOLTON.

Mr. McMurtrie objects to this receipt.

I was not present when this money was paid; I only know that it is the receipt book of the firm; it was paid for the account of, and charged to the account of, Abm. Miller.

Cross examined.

I am not able to say what is meant by "salvage on goods;" the cashier might explain it if he was brought forward.

Re-examined.

I was a member of the firm at this time; I don't know that any goods of Mr. Miller's was received from Mr. Bolton in May, 1846.

RODOLPHUS KENT.

Taken and subscribed, March 27, 1850.

CHAS. F. HEAZLITT, *Com'r.*

John Jordon, jr., being duly affirmed, says: I am one of the firm of Jordon & Bro.; book now produced is book of original entries; entry 5th May, 1846, groceries to C. B. Bowman, $204 99; this is credit price; 3 per cent. off for cash; I made the entries at the time they bear date; another entry same date, mackerel, $24; I made this entry at the time it bears date; this is cash price; another entry May 8, 1846, $17 25, fish to Mr. Bowman; this is also my handwriting, and made at the time it bears date; this is cash price.

Cross examination declined.

[Bill annexed, marked B 4.]

JOHN JORDON, Jr.

Taken, affirmed, and subscribed, March 27, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Adjourned till Tuesday next, 4 p. m.

Tuesday, April 2d, 1850.

Edmund H. Frishmuth, being recalled, says: I have my book of original entries here present; entry 25th April, 1846, bill $95 03, sold to Fincher und Thomas; these entries are in my handwriting, and were made at the time they bear date.

Cross examined.

These were credit prices; 5 per cent. off for cash.

EDMUND H. FRISHMUTH.

Taken and subscribed, April 2d, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Samuel Branson, being duly sworn, says: The books now produced are the books of original entries of Dilworth & Branson; the entry 5th May, 1846, $398 39, bill to Ziba Bennett; the entries are all in my writing, except one item, $5 22, the last; this was added by the book-keeper; I will swear to his writing; these were 6 months'

prices, 5 per cent. off for cash; the bill was paid the 2d May; $386 43 the amount paid.

Cross examination declined.

SAML. BRANSON.

Taken, sworn, and subscribed, April 2d, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Joseph R. Bolton, recalled. I recollect goods marked for Ziba Bennett, which were sent to Conover to be repaired; I went up with the goods to Conover's; they were on board the boat; I went up and gave directions; I do not recollect having seen any cedar ware; the bill of lading called for cedar ware; yes, I remember some cedar ware that we assessed the damages 25 per cent.; this was Ziba Bennett's; I remember some boots and shoes from Dulty and Johns and Coolidge; they were all sent to Coolidge to be cleansed; they were only muddy; I think $5 was paid for cleansing the whole of them; the two bills of Dulty and Coolidge's.

Cross examined.

Mr. Parrish and myself assessed the damage on the wooden ware. Mr. P. was Mr. Bennett's clerk; he came down here for the purpose of attending to it. I do not know at what rates of discount. Mr. Bennett sold these goods when he got them.

Re-examined.

I recollect giving a receipt to Brock and Co. Re-examined. The meaning of salvage is, that the money was collected for the purpose of compensating or indemnifying Vanderslice for his trouble in saving the goods only.

Re-examined.

I recollect having received money from Brock and Co. on account of Abm. Miller.

JOS. R. BOLTON.

Taken and subscribed, April 2d, 1850.

CHAS. F. HEAZLITT, *Com'r.*

John A. Neff, recalled: The book now produced is book of original entries of Mr. Buehler and Bro. Entry April 28, 1846, $130. Bill to G. H. Fowler, 6 mos. prices; 5 per [cent.] I made the entries.

Cross examination declined.

JOHN A. NEFF.

Taken and subscribed, April 2d, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Thomas C. Trotter, being duly affirmed: The bill to D. W. Gross from L. Hartshorn, for drugs, $111 85, is in my handwriting. I think the original entries were made by me. I have a distinct recollection of the sale. I think there was 5 per [cent.] off for cash on the window glass, and other glass ware; the books are in Jersey.

Cross examination.

There would not have been taken off more than 5 per [cent.] for cash to any purchaser on glass and other ware.

THOS. C. TROTTER.

Taken, affirmed, and subscribed, April 2d, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Edward Newland, re-called: Paper bill to Geo. Weaver for looking glasses, &c., $18 96, from Newland and Co., 5 per [cent.] off for cash, $17 98 nett; is a correct copy of books of original entries; I made the entries myself. I have testified to a bill of $38 30 sold Mr. Bennett; the goods alluded to in this bill, I have already testified, [they were] worth after damage, $9 81. Bill, May 5, 1846, Ziba Bennett, $38 30. These goods were sent back after the damage, and I sold him a second bill of $28 74, less 5 per [cent.] $1 44, and gave a credit for $9 81, the value of the other goods; the balance was $17 49.

Cross examination declined.

E. NEWLAND.

Taken and subscribed, April 2, 1850.

CHAS. F. HEAZLITT, *Com'r.*

John W. Horner, being duly sworn, says: The book now before me is the book of original entry of John S. Fitchett. Bill, April 21, 1846, to C. B. Bowman, $76 17—hardware. These entries are in my writing, and were made by me at the time they bear date—6 mos. prices, 5 per [cent.] off for cash.

Cross examination declined.

JOHN W. HORNER.

Taken, sworn, and subscribed, April 2d, 1850.

CHAS. F. HEAZLITT, *Com'r.*

Andrew Rovoudt, being sworn, says: The books now produced are books of original entries of P. and A. Rovoudt; entry 28th April, 1846, $35 44. Queensware—are in my handwriting. These are 6 mos. prices; 5 per [cent.] off for cash. The bill is to G. H. Fowler.

Cross examination declined.

A. ROVOUDT.

Taken, sworn, and subscribed, April 2, 1850.
CHAS. F. HEAZLITT, *Com'r.*

April 5, 1850. Mr. Rawle, Mr. McMurtrie.
Adjourned April 9th, 1850.

John A. Ellison, being duly sworn, says: Book now produced is the book of original entries of Wm. Ellison and Co. At April 30, 1846, I find an entry of goods sold to Geo. Weaver.

12 pr. gent. bl'k calf slippers, a 45	- - -	-	$5 40
6 " light " a 45	- - -	-	2 70
			$8 10

I made these entries; it is more than likely that I made the sale; but I am not positive. These are credit prices, 5 per [cent.] for cash; the bill has been paid.

JOHN A. ELLISON.

Taken, and sworn, and subscribed, April 9, 1850.
CHAS. F. HEAZLITT, *Com'r.*

(Copy.) A.

PHILADELPHIA, *April* 25, 1846.

Mr. Gilbert H. Fowler, bo't of Frishmuth & Brothers.

1 bbl. smoking tobacco, 14 6/16	- -	45	6 53
½ do. large do. 3 6/16	- -	90	3 07
¼ do. American segars, 2100	- -	1¾	3 68
¼ do. Spanish do. 500	- -	3¾	1 75
6 dozen pipes - -	- -	12½	75
4 lbs. Scotch snuff - -	- -	18	72
1 box 1/16 lump tobacco, 169—35=134	- -	9	12 06
1 jar snuff, 18¾—6½=11¾	- -	18	2 12
Packages -	- -	-	75
			$31 43

(Copy.) B.

PHILA'A, *May 7th*, 1846.

Mr. Edward Hughes, bo't of Frishmuth & Bro.

½ box 6 roll tobacco, 93½— 20½=73	- -	14½	10 59
½ do. 16 lump do. 81½— 17 =64½	- -	8½	5 48
1/16 do. do do. 10 —017 =83	- -	7	5 81
1 jar rap. snuff, 30½— 10½=19¾	- -	18	3 56
Jar - -	- -	-	50
			$25 94

C.

PHILADELPHIA, *April* 30, 1846.

Messrs. W. L. Waller & Co., bought of J. H. & W. B. Hart, wholesale grocers, No. 229, N. 3d st.

2 bags Rio coffee, 326—4=322 lbs.	-	8¼	27 37
1 bx candles (pckg. 20)	-	9	5 33
1 bbl. rice 220—120=100 lb. (pckg. 25)	-	4¾	5 00
103 lbs. loaf sugar	-	11½	11 85
Porterage	-		75
			$50 30

D.

PHILA'A, *May 7th*, 1846.

Messrs. Rickets & Stewart, bo't of J. H. & W. B. Hart.

1 barrel crushed sugar, 232—15=217 lbs. (barrel 25)	10¼	$23 04

E.

PHILADELPHIA, *May 1st*, 1846.

Mr. Geo. Zinn, bought of A. F. Chesebrough, commission merchant.

2 bbls. large No. 2 mackerel	9½	18 50
Drayage		25
Sent to Bolton's.		$18 75

F.

PHILAD'A, *May 1st*, 1846.

Mr. Geo. Zinn, bought of A. F. Chesebrough, commission merchant.

25 hams, 293 lbs.	6¼	19 04
Sent to Bolton's.		

G.

Mr. Edward Hughes, bought of P. & A. Rovoudt.

PHILAD'A, *May 7th*, 1846.

5 doz. colored bowls, ⅜, ½, ⅝,		2 50
10 do. edged muffins	40	4 00
3 do. do. do.	33	99
30 sets painted teas	19	5 70
6 doz. castor oil bottles, nett,		2 25
Cask		37½
		$15 81

H.

PHILADELPHIA, *May 4th*, 1846.

Mr. Ziba Bennett, bought of Jordan & Brothers, wholesale grocers, No. 121, N. Third street.

10 bags prime Rio coffee, 1634—20=1614 lbs. -	8¼	$131	14
10 do Laguira do. 1133—20=1113 " -	8¼	90	43
3 hhds. Trinidad molasses, 118			
120			
99			
— 337 gals. - -	19¼	65	72
8 bbls. N. O. molasses, 40½, 42, 37, 42, 40½, 44,			
41½, 42½=330 gals. - - - - - -	30	99	00
1 tierce fresh rice, 678, 10 pr. cent. tare, 67, 611 -	4½	27	00
8 boxes dipped candles, 56, 56, 56, 56, 57, 57, 57,			
55=450 - - - - - - - -	8¼	39	38
8 boxes mould candles, 63, 63 62, 62, 60, 60, 60,			
60=490 - - - - - - - -	9¼	47	78
16 boxes - - - - - - -		4	00
1 box single loaf sugar, 493—59=434 - - -	11	47	74
1 bag old Java coffee, 137—2=135 - - -	12	16	20
1 box sp. candles, 6's, 31½ lbs. - - - -	28½	8	91
1 do. ground pepper, in papers, 56 - - -	14	7	84
Box - - - - - - - -			25
3 hhds. N. O. sugar, 1268			
1480			
1322			
12 per cent. tare, 4070—488=3582 - -	6¼	223	87
6 boxes y. soap, 82, 83, 81, 82, 82, 82=492 - -	5	24	60
6 boxes - - - - - - -		1	50
2 hf. chests y. hyson tea 75			
76			
151			
Tare, 12 pr. cent. each 24=127 - - - -	56	71	12
		$906	98

J.

PHILADELPHIA, *May* 2, 1846.

Messrs. W. L. Waller & Co., bought of Shields & Miller, No. 79 N. 3d street.

½ doz. D. hdl. steel shovels, 600 - - - - -	3	00
½ " lag. hdl. " 550 - - - - -	2	75
	5	75

K.

PHILADELPHIA, *April 23d*, 1846.

Mr. Jacob Fisher, bought of C. H. & Geo. Abbott.

3 scale beams, a 50 cts.	$2 00
1 "	0 37
6 doz. knives and forks, a 35	2 10
6 lbs. best sho. thread, 55	3 30
½ doz. dog collars, 9	4 50
2 pair tailors' shears, 87½	1 75
½ gro. steel shoe tacks, 2	1 00
½ doz. C. S. cut iron, 2-in., 2 62	1 31
¼ " " 2¼, 2 85	1 90
1 " G. S. single, 2¼, 1 95	1 95
¼ " " cut iron, 2¼, 2 50	0 63
	$20 81

L.

PHILADELPHIA, *May 7th*, 1846.

Mr. Z. Bennett, bought of E. T. Deacon.

2 B, No. 3 hats, at 2 33, nett	$4 66

Received payment.

E. T. DEACON.

M.

PHILADELPHIA, *May 5th*, 1846.

Mr. Z. Bennett, bought of E. T. Deacon.

1 doz. B, No. 1 hats, 33	$33 00
½ " B, No. 3 do., 28	14 00
1 " black japanned do, 6, 5 off	5 70
½ " blue sporting do, 6	2 85
Nett	$55 55

Received payment in full.

E. T. DEACON.

N.

PHILADELPHIA, *May 27th*, 1846.

Mr. Z. Bennett, to E. T. Deacon, Dr.

To cleaning, finishing, and trimming, &c., 20 hats, 70 cts.	$14 00
" " " 12 " 75	9 00

To cleaning and putting tips, 18 hats - - -	1 00
1 new box and repairing 2 others - - - -	1 00
	25 00
Porterage from and to the wharf -	50
	$25 50

Received payment in full.

E. T. DEACON.

P.

PHILADELPHIA, *May 6th*, 1846.

Mr. Z. Bennett, bought of R. D. Wilkinson.

1 dozen fine hats - - - - - -	$33 00
1 " fine silk oil caps - - - - -	6 50
	$39 50

Received payment.

R. D. WILKINSON.

R.

PHILADELPHIA, *February*, 1850.

Mr. Ziba Bennett, to Edm. Coolidge, Dr.

1846, May 5.—12 pr. men's kipp. boots, 1 37½ - -	16 50
No. 1, one box.	
12 pr. men's calf boots, 1 45 - -	17 40
No. 2, one box.	
Amount for cleansing, &c., the above -	3 85
	$37 75

Q.

Received, Philadelphia, April 27, 1846, of J. S. Fitchett, the following packages, to be forwarded, (the dangers of the navigation, fire, and other unavoidable accidents excepted.) Marked J. Fisher, at Harrisburg, 4 in all, for James M. Bolton, Girard wharves.

4 boxes H. ware.
4 bundles steel.
1 " hoes.
1 " shovels.

A. TOWERS.

S.

Mr. J. K. Sharpless, bo't of Manly Rowe.

1 doz. buckets	- - - - - -		2 12½
1 nest baskets	- - - - - -		1 75
1 " "	- - - - - -		3 00
½ doz. work do.,	1 50 - - - - -		75
½ " " "	3 00 - - - - -		1 50
2 nest boxes, 42	- - - - - -		84
2 blinds, 35	- - - - - -		70
1 nest bowls	- - - - - -		1 50
1 market basket	- - - - - -		1 25
			$13 41

Philad'a, April 16, 1846.

T.

PHILAD'A, *April 29th*, 1846.

Messrs. Hefley and Mendenhall, bought of Ludwig, Kneedler & Co., No. 110 north Third st.

15,594—1 ps. wool blk. cloth,	14½,	3 50	- -	50 75
1,536—1 " " " "	9,	2 50	- -	22 50
1 " tweed,	18,	1 10	- -	19 80
1 " fancy cassimere,	9,	1 00	- -	9 00
1 " Belgian "	29¾,	62½	- -	18 59
1 " cassimere stripe,	37½,	31	- -	11 62
1 " ⅘ drap d'été,	8,	80	- -	6 40
1 " gingham,	36,	20	- -	7 20
1 " lawn,	24,	25	- -	6 00
1 " black satin vesting,	3,	2 00	- -	6 00
1 " sup. do., delivered,	1,	3 00	- -	3 00
3 " col'd cambrics	114¾,	6¼	- -	7 16
1 " ¼ ticking,	40,	23	- -	9 20
1 " red flannel,	25¾,	27	- -	6 95
1 " Manchester drilling,	30,	9	- -	2 72
1 doz. domes. hdkfs.	- -	- -	- -	1 00
1 " white Berlin gloves	- -	- -	- -	1 50
1 " mixed cotton ½ hoes	- -	- -	- -	1 37
1 " gum suspenders	- -	- -	- -	3 00
½ lb. sewing silk,	7 50	- -	- -	3 75
2 ps. tweed cloths,	29½,	1 15	- -	33 92
2 " fancy cassimeres,	18,	1 00	- -	18 00
1 " blk. satinet,	23,	70	- -	16 00
1 " cadet do.,	25,	40	- -	10 00
1 " wool blk. cassimere,	22½,	1 37½	- -	30 94

1 ps. worsted serge,	10,	25	-	-	2 50
1 " satin vesting,	2,	3 00	-	-	6 00
3 " Marseilles do.,	7¾,	50	-	-	3 87
1 " green barege,	10,	45	-	-	4 50
1 " pungee hhdkfs.	-	-	-	-	3 50
1 " gro. lasting vest buttons	-	-	-	-	55
1 " Irish linen,	13,	50	-	-	6 50
1 " plaid cambric,	12,	19	-	-	2 28
1 " do. do.,	12,	30	-	-	3 60
2 " bishop lawns,	24,	40	-	-	9 60
1 " foundation muslin,			-	-	1 75
1 " crash,	11¼,	8½	-	-	96
1 " plaid pants, stuff,	29,	16	-	-	4 64
1 " Oregon cassimere,	37,	30	-	-	11 10
1 " plaid cassimere,	21¾,	62½	-	-	13 59
1—2 " domes. pants,	64¼,	8½	-	-	5 46
2—2 " " "	67½,	9	-	-	6 07
3—1 " fancy cassimere,	35,	10	-	-	3 50
4—1 " " "	37,	10½	-	-	3 88
6—1 " " "	33,	11	-	-	3 63
7—2 " " "	64,	11½	-	-	7 36
8—2 " " "	64¾,	12½	-	-	8 09
9—1 " " "	30,	15	-	-	4 50
10—1 " " "	32¾,	13½	-	-	4 42
11—1 " " "	33¾,	17	-	-	5 74
1 " blue "	30¾,	9½	-	-	2 92
2 " black and white do.,	66,	10¼	-	-	6 95
1 " balzorine do.,	34,	11½	-	-	3 91
4 " ¼ gunpowder muslins,	130¾,	11¾	-	-	15 36
3 " fine A do.,	103¾,	10	-	-	10 37
1 doz. children's hose	-	-	-	-	1 37
17 cotton laps,		6¼	-	-	1 06
1 ps. east N. Market *mars* to *line*,	34¼,	7½	-	-	2 57
1 W. case and 2 cooperages	-	-	-	-	1 50
					$480 24

V.

PHILADELPHIA, *April 26th*, 1846.

Mr. Geo. Masters, bought of James M. Bolton.

4 barrels No. 2 mackerel, 6 - - - - -	24 00
4 " " herrings, 3 25 - - - - -	13 00
3 sacks gro. salt, 1 35 - - - - -	4 05
	$41 05

Rec'd payment, JAMES M. BOLTON,
E. G. JAMES.

W.

PHILADELPHIA, *April 28th*, 1846.

Mr. Jno. Sharpless, bought of James M. Bolton.

4 barrels	small No. 2 mackerel, 6 - - - - -	24 00
1 "	large " 1 do. - - - - -	11 00
1 "	herring - - - - - - -	3 25
		$38 25

Rec'd payment, JAMES M. BOLTON,
E. G. JAMES.

X.

PHILADELPHIA, *May 1st*, 1846.

Messrs. Fincher and Thomas, bo't of James M. Bolton.

1 barrel	No. 2 mackerel, a 6 - - - - -	$6 00

Rec'd payment,
JAMES M. BOLTON,
JNO. J. SPERRY.

Y.

PHILADELPHIA, *April 29th*, 1846.

Messrs. Fincher and Thomas, bo't of James M. Bolton.

1 barrel	No. 1 large mackerel - - - - -	11 00
1 "	No. 2 small do. - - - - -	6 00
		$17 00

Rec'd payment,
JAMES M. BOLTON,
JNO. J. SPERRY.

Z.

PHILADELPHIA, *April 20th*, 1846.

Mr. T. K. Sharpless, bo't of Robinson, Collins & Co.

64 lbs.	putty, keg 25, 4 - - - - - -	2 81
43 "	dry white lead, keg 20, 8 - - - - -	3 64
20 "	ref'd borax, 20 - - - - - -	4 00
75 "	yellow ochre, keg 30, 2 - - - - -	1 80
53½ "	madder, keg 30, 18 - - - - -	9 93
64 "	glue, half-barrel, 37, 13 - - - - -	8 69
2 gal.	copal varnish, can 45, 1 50 - - - -	3 45
3 lbs.	camphor, 45 - - - - - -	1 35
5 "	flower sulphur, 5 - - - - -	25

6	lbs. liquorice, 18		1 08
1	" nutmegs		1 62
2	doz. guld. tinct., 40		80
2	" ess. mint		80
1	" Brit. oil		45
2	" Godfrey's cordial, 40		80
2	" paregoric, 40		80
1	" laudanum		62
1	" bals., Dr. Marther		75
2	" Harlem oil, 62½		1 25
½	" syrup tar, 8 00		4 00
1	lb. senna		23
1	" pink root		25
2	doz. castor oil, 1 00		2 00
1	" " " 4 00		1 00
1	" sweet "		1 00
2	lbs. assafœtida, 25		50
15	" litharge, 7		1 05
1	" arenetta		45
1	doz. ink powder		62
½	lb. sugar lead, 20		10
1	" Prussian blue		1 00
6	" rose pink, 15		90
1	gro. bottle corks		45
1	" vial do.		12
½	lb. red precipitate, 1 75		88
1	doz. arsenic		38
5 1/16	lbs. aqua-fortis, bottles 25, 10		82
2	doz. bl'k ink, 62½		1 25
1	glass funnel		20
1	doz. Lee's pills		1 12
3	lbs. gum Arabic, 50		1 50
3	lbs. cloves, 38		1 14
1	doz. bears' oil		1 00
½	lb. opium, 6 00		3 00
1	doz. liqu. opodeldoc		1 25
1	lb. droh'a verdegris		75
5	" chrome yellow, 25		1 25
1	" aloes		15
2	" red chalk, 8		16
10	" gum copal, 48		4 80
91	" whiting, keg 30, 1¼		1 44
2	" sup. car'e soda, 12½		25
1	" tart. acid		56
1	gro. matches		75
¼	doz. sweet oil, 4 50		75
45	lbs. putty, keg 25, 3¼		1 94

2 kegs pure lead, 2 25	- - - - -	4 50
2 " No. 1, lead, 2 00	- - - - -	4 00
½ doz. syr. w. cherry and tar, 8 00	- - -	2 00
1 " castor oil	- - - - -	86
box	- - - - -	75
		$96 01
Deduction on sundries	- - -	41
		$95 60

A 1.

May 7, 1846.

Mr. Edward Hughes, bought of Lower & Barrow.

1 doz. Hales' grass scythes - - - - -	9 00
½ " Griffins' corn " $12 - - - -	6 00
1 " sickles - - - - - -	5 00
	$20 00

A 2 to 9.

PHILADELPHIA, *June* 8, 1846.

Mr. John Gilbert, to Anthony Vanderslice.

For salvage on drugs saved from boat Judge Royer, on account of G. H. Fowler - - - - -	$3 90
Cr. by nett amount of goods sold at auction - - -	3 90

3.

PHILADELPHIA, *June* 11, 1846.

D. W. Gross, to Anthony Vanderslice.

For salvage on goods saved from boat Judge Royer - -	$7 08

4.

PHILADELPHIA, *June* 6, 1846.

Messrs. T. Alibone & Co., to A. Vanderslice.

For salvage on oil saved from boat Judge Royer, on acct. T. W. Buffington - - - - - -	$7 98

5.

PHILADELPHIA, *June* 8, 1846.

Messrs. J. T. Kirkpatrick & Co., to Anthony Vanderslice.

For salvage on hides saved from boat Judge Royer, on account of Mr. W. Bird - - - - -	$3 25

6.

PHILADELPHIA, *June* 8, 1846.

Messrs. Scull & Thompson, to Anthony Vanderslice.

For salvage on goods saved from boat Judge Royer, on acct. Geo. Zinn - - - - - - -	5 33
Cr. by nett proceeds sale at auction - - - - -	3 93
	$1 40

7.

PHILADELPHIA, *June* 8, 1846.

Messrs. Buehler & Bro., to Anthony Vanderslice.

For salvage on hardware saved from boat Judge Royer, on account of G. H. Fowler - - - - - -	$4 23
Cr. by nett amount of goods sold at auction - -	4 23

8

PHILADELPHIA, *June* 8, 1846.

Mr. Ziba Bennett, to Anthony Vanderslice.

To salvage on goods saved from boat Judge Royer, at Gloucester point - - - - - - -	$113 46
Cr. by nett proceeds, sale at auction - - -	52 90
	$60 56

9.

PHILADELPHIA, *June* 8, 1846.

Mr. C. B. Bowman, to Anthony Vanderslice.

For salvage on goods saved from boat Judge Royer, sunk at Gloucester point - - - - - - -	$12 87
Cr. by nett proceeds, sale at auction - - - -	8 20
	$4 67

Jordan & Bro., 3d above Race.

A 10.

Amount paid by Capt. Vanderslice.

Rice, for catching goods - - - - - -	$10 00
Howell - - - - - - - - -	5 00
Taking to point - - - - - - -	3 00
John Green, carting - - - - - -	1 25
Chatham - - - - - - - -	2 00
Drawing out boat - - - - - -	45 00

Lewis Bell, labor	10 00
Robinson, in part	2 00
for labor	1 00
	79 25
For use of boat	5 00
Towing up and down	6 00
	$90 25

J. B.

B 2.

PHILADELPHIA, *April 30th*, 1846.

Messrs. W. L. Waller & Co., bought of Potts, Linn & Harris.

1 lb. gum opium	$5 00
5¼ " castile soap, 15 c.	0 79
5 gals. sp. turpentine, can 75, 70 c.	4 25
2 " copal varnish, " 40, $1 75	3 90
10 lbs. litharge, 7 c.	0 70
21 " chalk, 1 c.	0 21
2 " red chalk 8 c.	0 16
5½ " chrome yellow, 25 c.	1 38
4 kegs gr. white lead, pure	8 50
2 " " " " No. 1	3 75
115 lbs. washing soda	4 11
Box 50, porterage 25 c.	0 75
	$34 00

Box marked, glass. W. L. Waller & Co., Berwick, Pa. From Potts, Linn, and Harris, wholesale druggists, 213½ Market st.

B 3.

PHILADELPHIA, *May* 4, 1846.

Mr. Z. Bennett, bought of Manly Rowe.

7 nests tubs, 2 33	$16 31
6 churns, 90	5 40
3 " 2 00	6 00
3 " 2⅛	6 37
1½ doz. hose buckets, 5	4 16
½ " seal ½ bushels, 7½	3 75
½ " square baskets, 9	2 25
½ " oval, 6	1 50

1 doz. wash boards		1 75
1 " wisp		1 25
½ " " 1 12		0 56
2 nests reeler, 1 12½		2 25
2 doz. spoons, 75		1 50
2 " ladles, 1 12		2 25
½ " stave cutters, 4¼		2 12½
3 nest bowls, 1½		4 50
1 doz. hand scrub		1 00
1 " " "		0 75
½ " 8 K. wale B., 4¾		2 37
12 lbs. wire, 22		2 64
12 " do 21		2 52
		$71 22

Sent to Bolton's.

B 3.

PHILADELPHIA, *May* 2, 1846.

211 Robt. McCoy,
21 Dr. to merchandise.

For 10 barrels No. 2 mackerel, $6	$60 00
3 " herring, 8	24 00
3 " shad, 3 25	9 75
2 sacks fine salt, *a* 1 60, $3 20; sack cse. salt, *a* 1 35; port., 62	5 17
	$98 92

Copy from Hart's book of original entries.

B 4.—(Copy.)

PHILADELPHIA, *May* 5, 1846.

Mr. Charles B. Bowman, bought of Jordan & Brother.

1 hhd. syrup molasses, 127 gls., 38	$48 26
3 lumps double loaf sugar, 29, 12½	3 62
1 bbl. lump sugar, 132 — 50 = 82, 11¼	9 43
Filled with Rio coffee, 208 — 132 = 76, 8½	6 46
Bbl.	25
1 bbl. spermaceti oil, 37 gls., 1 00	37 00
½ chest y. hyson tea, 79 — 12 = 67, 72	48 24
½ " imperial tea, 71 — 12 = 59, 78	46 02
1 bbl. rosin	1 13
1 keg saltpetre, 36 — 3 = 33, 9	2 97

Keg		20
1 keg brimstone, 28 — 2 = 26, 3½		91
Keg		18
32 lbs. white chalk, 1		32
		$204 99
Cash bills—		
4 bbls. No. 2 mackerel, 6		24 00
1 bbl. No. 1 mackerel	$11 25	
1 " No. 2 "	6 00	
		17 25
		$246 24

MAY 8.

B 5.—May 1, 1846.

Mr. Geo. Weaver, to J. E. Newland & Co.

2 mahog. l. glasses,	2 50		5 00
2 "	1 62		3 25
2 "	1 50		3 00
2 "	1 37½		2 75
2 "	1 12½		2 25
2 "	62½		1 25
4 "	12		66
Box			80
			18 96
5 off			94
			$18 02

PHILAD'A, *April 28th*, 1846.

Mr. G. H. Fowler, bot. of P. A. Rovoudt.

3 doz. edged twifflers,	45		1 35
5 " muffins,	1 1 1 30, 33, 40		1 83
1 " plates, soups			60
1 " twifflers			45
6 doz. color'd stone bowls,	2 4 37, 50		2 75
¾ " edged dester,	114 114 114 225, 300, 375		2 25
1 " quart bottles			1 00
1 " pint flasks			70
2 " white nappies,	1 1 60, 85		1 45

4/766.

½ doz.	flower blue muffins, 75	37½
1 "	tea set, decorated	4 50
1 "	twifflers' lamp	1 25
1 "	lustre edge muffins	50
½ "	flower blue pitchers, 150, 225, 35	1 71
1 "	tumblers	50
1 "	" flute	1 00
½ "	colored salts, 50	25
1 "	glass "	75
½ "	" " 87	44
½ "	lustre " 75	37½
1½ "	" horns, 100, 112½	1 56
1 "	½-pint flasks	50
½ "	safety lamps, 1 62	81
4 setts	flower blue teas, 60	2 40
1 doz.	" twifflers	1 25
1 "	" muffins	1 05
½ "	" " decorated, 75	37½
20 sets	painted teas, 14	2 80
Crate		67
		$35 44

Depositions taken under rule before J. Burehard, on the part of respondents on the 29th June, 1847, at Even's tavern in George st., Philadelphia, at 4 o'clock, p. m.

Present: F. W. Hubbell, esq., and R. C. McMurtrie, for respondents, and C. W. Brooke, esq., for libellants.

Philip F. Snyder, being produced, affirmed, and examined on the part of the respondents, deposes and says: I hold the office of surveyor and principal regulator of Southwark; I was employed by Mr. Hubbell and Mr. McMurtrie to make a survey of Greenwich point; I did make the survey on the 14th June, 1847; the result of my survey is in the plan hereto attached, marked A. The distances laid down on this plan were made by actual admeasurement, and the points of the compass on this plan are taken from an instrument used on that occasion, my surveying compass; the distance of the line given from the bank, 562 feet, is the distance along the bank in a straight line from the north line of the Point-house wharf, to the south line of the Powder wharf; the levels as marked on the plan are taken from the levels of the wharf; the place marked on the plan by the figure of a man is called the Bean patch; the figure of the man represents the spot where a Mr. Harberson told he stood in order to look over the fence to view some collision that had occurred, to which my attention had been drawn, by hearing a crash or crashing noise; I understood him to refer to a collision which

had taken place between two boats; the shore between the two wharves as marked in the plan is marshy and soft mud, in which a number of spatter-docks grow; I can't speak positively as to the angle of inclination; my impression is that it gradually recedes to the river; I can't state positively the distance between high-water mark and the top of the wharf; the mark (bank) in the plan is a bank of earth with a stone wall with trees growing along the edges of it; the dotted line from the figure of a man on the N.E. corner of the Point-house wharf, is intended to show the line of the levels that were taken from that wharf to where the figure of the man is, and also the level of the bank where the line crosses; these levels were taken with instruments by me at that time as before stated when I was down there.

Cross examined by Mr. Brooke for libellants.

My brother and Mr. McMurtrie were present at the time I made the survey, and Mr. Harberson the part of the time; I do not know at whose invitation Mr. Harberson attended there; the first we saw of him he was sitting in front the hotel; I think we reached the ground about 11 or half past 11 in the morning, and remained there until about 3 o'clock; my brother went with me, and I met Mr. McMurtrie at the wharf; there were no persons there on behalf of the libellants that I know of; there had been no notice given to the libellants to my knowledge of the intention to make the survey; I took notes on the ground; the notes being produced by the witness are hereto attached, marked B; I do not hold any appointment at all in the courts of admiralty; I was employed exclusively by Mr. Hubbell and Mr. McMurtrie; I cannot tell the distance between the bank and high-water mark.

Question. Did you not, in taking that survey, act under the direction of Mr. McMurtrie?

Answer. Yes, I did, otherwise I should not have known how to make the survey; I believe I am in my 30th year; I have held the office before spoken of since June, 1845; I have been paid for making the survey; I was paid by Mr. Hubbell; the amount was ten dollars; the distance of 562 feet indicates the length of the line upon which it is marked.

Re-examined.

Mr. Harberson had no further concern in the survey than to indicate the spot marked on the plan by the figure of a man.

Question. Having received Mr. Harberson's direction as to what things he wished surveyed in making that survey, were you or were you not guided by actual distances, and by objects natural and artificial which you found on the ground?

Answer. In making the survey I was guided by natural and artificial objects found on the ground.

Question. Were you or not required to represent any thing other than it was on the ground, to conceal or misrepresent any thing?

Answer. Of course not; I should have considered a proposition of that kind as an insult.

By Mr. Brooke.

Question. Did Mr. McMurtrie, or any body else, put you in possession of the merits of the controversy?

Answer. I was only made acquainted with the general fact that [there] had been a collision, but the name of the boats or the party I know nothing.

PHILIP F. SNYDER.

Taken, affirmed, and subscribed, the 29th June, 1847, before

J. BURCHARD, *U. S. comm'r.*

Wm. Fisher, a witness called and sworn on the part of the respondents, says: I am captain of the canal boat John Packer, of Lockhaven, in Clinton county, on the west branch of the Susquehanna; I saw the canal boat Judge Royer lying in Mr. Bolton's dock; I know Captain Vanderslice by sight, but have no acquaintance with him; I think it was on the 15th May, 1846, that the canal boat, Judge Royer, going down the river suffered a disaster.

Question. State whether or not you were in the port of Philadelphia with your boat on that occasion, and if you were, whether or not you were ready to proceed on a voyage to Lockhaven.

Answer. I was in the port of Philadelphia, and was ready to proceed on a voyage to Lockhaven on 15th May, 1846.

Question. Did you or did you not proceed on the voyage; if you did not proceed, what was the reason you did not proceed? (Question objected to by W. Brooke, esq., counsel for libellant, on the ground of irrelevancy.)

Answer. I did not proceed on the voyage because Captain Metz came there and said it was not safe to go out; I then told him that I had a heavy load on; that I would not go unless he allowed it was safe to go; he said it was not safe; but he said, if we would go, we would have to run our own risque in going; I thought that the wind on that day blew hard, rather too hard for me to venture out; I was lying right at the river on board my boat; she was lying at Gaskill's wharf, near Race street; a few days before that I went down to Mr. Bolton's wharf. (Objected to by Mr. Brook as not being pertinent.) There were two or three other captains, boat captains, there, and we went to the canal office, Chesapeake and Delaware Canal office, to see when the steamboat would be ready to go out; on our way down Captain Vanderslice appeared very anxious to get off; he was one of the party that went down to the canal office; indeed we were all anxious to go off; he then said that if the steamboat did not soon go off the tow, that he had a notion of buying himself a set of oars and row his boat to Delaware City; we then laughed at him; some of them made mention that he would go adrift; he then said that he was not much afraid of this river; he did not call it a large or a small river; the

wind at that time was blowing a little, but not that I thought to hurt anything; I have followed the business of boating some six or seven years on the Pennsylvania, Schuylkill, and Union canals, altogether; I have been three years in the habit of passing through the Delaware and Chesapeake canal; we generally have two able bodied men and a boy on board a canal boat; I should not turn out with a boat unless I had one good man and myself and a boy; it generally takes one good man at the helm; then it takes a pretty stout man to manage the lines; hooking and unhooking, unhooking especially; the boy is not of much use when on the bay, but in the canal the boy drives the horse; he does not cook often; our boat was 80 feet long and 13½ wide; the canal boat generally gets weighed at the weigh locks, and when we speak of her as carrying so many tons, we mean the weight she will carry of any commodity; I do not mean custom-house measurement, as I do not know what that means; we don't generally carry anything but such as we can load our boats down, as coal, iron, wheat, or any other produce.

Cross examined by W. Brook, esq.

I was 39 years of age last October; before I took to boating I was a distiller by trade; I carried on that business in Danville, North'd county; I left off that business somewhere about 1835 or 1836, and went immediately to boating; I have been boating ever since, off and on, not steady; but for the last four years steady, from Lockhaven to Baltimore and Philadelphia; I was in the habit of running down the river with Captain Metz; I could not just tell the number of trips I have been with him; there are two towboats running, and they ran trip about, as near as I could understand, and whenever we are ready to go out we go with the first steamboat that comes; we were loaded with store goods on the occasion when I declined going; we usually have two horses connected with our boat when on the canal; we leave the horses at Delaware City when we come up; we do not leave a hand there to take care of them; my boat draws 3 feet in the canal when we are loaded; I have gone down with Captain Metz before; I could not tell how often; coming up we generally take our driver along, because we don't want him an expense at Delaware City; when we hitch on to a towboat we don't give up the command of our own boat; we have to stand by our helm, to steer our boat, to keep her from sheering back and forward; it takes one stout man to do that; the other two men are not doing anything at that time; the driver is always pretty much a boy from 10 to 15 years of age; a boy is not capable of doing *of doing* a man's business; I suppose a man between 60 and 70 (objected to,) could not be able to do a man's work at any kind of labor; I never have known a boy of 15 able to do a man's business of 25; the conversation I have spoken of with Captain Vanderslice was a few days before he went down with the towboat; we had been waiting to get down 5 or 6 days; there was no ice in the river; there were pres-

ent at the conversation between me and Captain Vanderslice the captain of the boat Col. Lloyd, of Williamsport, and the captain of the Lady of the Lake, of Bloomsburg; the conversation took place on the way from Bolton's wharf to the canal; I cannot tell you on what street.

Re-examined by Fred. W. Hubbell, esq.

About the time we are unhooking our line to be cast off from the steamboat to land at the wharf, then the services of the other man become necessary. It must be the services of a stout able bodied man; the lines are generally wet and heavy; sometimes *they* line belongs to the canal boat, and sometimes they give us a line from the steamboat; there is a hook on the line which hooks in a ring in the canal boat; the ring is screwed into the deck of the canal boat, and is generally called a bow ring. The man who unhooks the line when we approach the wharf throws the line generally ashore, and fastens it. While this is doing the helmsman remains at the helm; it is necessary he should. When we approach a wharf where there is no friendly person on the wharf to receive a rope, which is thrown to him, the bow man leaps ashore, if near enough, or the boat goes adrift.

Again cross examined by W. Brooke, esq.

I would judge the rope by which the canal boat is fastened to the tow boat is an inch and a quarter or more in thickness, at least an inch and a quarter; they are generally from thirty to forty feet long, that is our bow lines; the lines they give us from the steamboat I should judge them to be from 20 to 30 or 40 yards long; it is what we call the towing line, which is thrown on to the wharf; we don't call the line with which we are connected with the towboat the tow line; we confine that term to the line which is used in towing on the canal; on board the steamboats, I should judge, they call it a cable; when we unhook the cable, if the line belongs to the canal boat, we pull it aboard; if it belongs to the steamboat we unhook it, and let it fall into the the water; there is nothing peculiar about the hook; it is a simple hook; if there is a long line out it is considerably heavy, and requires a considerable pull to get it out; the ring is generally in the stem post; I cannot tell what would be the weight of such a line saturated with water.

WM. FISHER.

Sworn and subscribed, June 22, 1846, before
JOHN BINNS,
United States commissioner.

Thomas C. Metts, being produced, sworn, and examined, deposes and says:

C. W. Brooke, on the part of the libellants, objects to the examination of the witness on the ground of interest.

I have no interest in this suit. I have had a release executed to me; I have it in my pocket; here the release being produced witness says, that the release was executed on the 29th day of June last; I have had it ever since. The paper produced by the witness is hereto attached, marked A. I have commanded the steamboat Superior; I have been in the employ of the company, the Philadelphia and Havre de Grace Steam Towboat Company; during that time I have towed about 9,000 boats. I still command the Superior; I commanded her at the time the occurrence took place, which is the subject of this suit. On the 15th day of May, 1846, I started from the first wharf above the navy yard, ebb tide, about 6 o'clock in the morning, wind from the south, and not very heavy; proceeded up to Willow street to take coal in; stopped before I got there and took hold of three boats at Mr. Bolton's wharf; we went to Willow street wharf with them; there we stopped; commenced taking in coal; before getting all our coal in the wind began to blow very heavy from the southward; I called the attention of the boatmen, and told them it would not be a fit day to take them down; they asked me why; I told them their boats were loaded very deep, and would be very rough all the way down to Delaware City from the Point-house, if the wind continued where it was; I told them that they would feel the wind a great deal worse below the Island than where they were; they told me they did not care, they intended to go; I did not feel satisfied taking them; I went down to see the president of the company; I told him it was not a fit day to take these boats, (objected;) he asked me why; I told him two of them were old Schuylkill boats loaded deep, and if they went they would be lost. He told me to tell them if they would not take my advice, and would go, they must go at their own risk and responsibility. I went up and called my engineer to me, and told [him] I wanted him to hear what I had to say to the boatmen, I called them, and they all came in their boats, *the came* and I asked them if they intended to go; they told me they did; I said, if you go, you go at your own risk and responsibility. I then told the men to stand by and cast the lines off from the wharf; we rounded off from Willow street wharf; as we got in the trough of the sea one of the bow rings of the boats pulled out, and she went adrift—I mean one of the three canal boats; as we got down to the lower end of the island, I mean the island off the town, the captain of one of the boats sent word to me by one of my men, that he declined going any further, and that we must cast him off; we sheared into the wharf above the navy yard and let him go; he run in against the ice boat and got a line out there; his boat a little run against the ice boat. I went to Captain Vanderslice and asked him if we had not better let go them too; if you don't you will lose your boat as sure as you live. His reply to me was, there is no danger, and I will risk her. I then ordered the engineer to go ahead again; we got down as far as the Canal wharf, below the navy yard, wind increasing all the while, and we had Captain Vanderslice's boat alongside the steamboat; I gave the men orders to drop him astern, right in the wake

of the boat, and give him a good stout hawser to tow him with; I made the change because if he had remained alongside the boat he would have [been] thumped to pieces against our fenders; we had to stop the boat in order to drop him under the stern; while the boat was stopped the wind was blowing so heavy that it blew the steamboat right athwart the tide. Before we got the steamboat straight head to sea, there was 3 or 4 barrels rolled off of Captain Vanderslice's deck; before we came to the Powder wharf one of my men came and told me that Captain Vanderslice requested that we would land him ashore, somewhere; at the time the barrels rolled off, the canal boat was athwart the tide, in the trough of the sea. Upon hearing Captain Vanderslice request to be landed somewhere, we were about 200 yards from the shore. I headed her, the steamboat, in about a west course, which fetched the southeast corner of the Powder wharf; as soon as we fetched the corner of the Powder wharf we stopped the steam off; by 'fetching it' I mean passing close to it, so that I could jump on to it from the wheel-house. After we got inside we run along the edge of the water, not over 10 yards from the mud—I mean the bare mud at the edge of the water. We had to change our course to do this; when we got better than half way between the Powder wharf and Steamboat wharf we stopped the steam off entirely, and told the men to slack up the hawser, and tell Captain Vanderslice to unhook it and run in on the mud. One of my men sung out, that the boy could'nt unhook it. I told them to let it go entirely then, which he did; I then canted the steamboat head about S. E., to clear the end of the wharf, and the ferry boat, which was out a little beyond the wharf; I rung for the engineer to start the boat ahead slowly; I looked out of the pilot-house window, saw Captain Vanderslice about the middle of his boat, running back to his tiller; just before *as* he got to the tiller the boat struck the wharf, and knocked the old man over, and he fell on his side; he fell on the roof of his cabin; I then started the boat ahead as fast as she would go, and rounded to and came up to Captain Vanderslice. By the [time] we had got back with the steamboat to Captain Vanderslice, he had anchored below the wharf, below the south edge of the wharf, 75 or 100 yards below the wharf; we were some time before we got to him, being a heavy sea, 8 or 10 minutes; when we got to him he lay with his head towards the Jersey shore, and stern towards the Pennsylvania shore, in the trough of the sea; we went alongside of him to tow him away from there to get a line to him; one of my men hove him a line; he said that he had anchored, he must get his anchor up; got the anchor up and got a line made fast to him. Then it took some time to get the line out of our wheel; the hawser, with which we had him in tow, had got entangled with our wheel, foul of wheel, wrapt round. The tide, I suppose, did it all. This time both boats lay athwart the tide, rolling very heavy; a little boy was standing on the top of the cabin of canal boat, in the act of crying, saying there is water coming all over the cabin floor; I told the men to be in a hurry and get the line made fast, or we should get on an old wreck that lay there; after

a very little while, they told me they *was* all ready to go ahead; we started ahead; after passing two or three revolutions of the wheel, the canal boat rolled under our guard and fenders, and the wheel struck her side. The sea was the cause of her getting there; we got her out; got her astern with a hawser, and towed her over to Gloucester point; we got her over within about 100 yards below the wharf; the new wharf was not built there then; we run in as close as we dare without getting aground, slacked up the rope, and told Captain Vanderslice to jump out in the water and carry his tow line ashore, and make it fast to a tree. I saw him have poles out pushing in, and thought he had got in. I then proceeded up river towards Philadelphia, with the steamboat. My first course in coming up to the city was to go over towards the Pennsylvania shore. We got up, I suppose, about half a mile from Gloucester point. My engineer came to me and told me that that boat had got off the shore again; I rounded right down the river again, and went after her; we ran down between the Pennsylvania shore and the canal boat, and rounded to in order to get to the lower side of her; she was drifting in the trough of the sea, head towards the Jersey shore, and she was as near full of water as she could be; the deck *were* just out of the water; I intended to go to the lower side of her; she being full of water, the wind took very little impression on; and the steamboat being out of the water, the wind took a great impression on her; the engine of the steamboat was stopped entirely; the lift of the sea brought the stern of the canal boat against the bow of the steamboat, and broke a little piece out of the canal boat's stern, which I saw this day; this piece was about 3 feet long and about a foot wide—a piece to keep persons from sliding off the quarter deck; it rises above the deck like the combings of a hatch; we hove a line; nobody aboard but Capt. Vanderslice; he couldn't get it; the boy was in a batteaux with Lewis Bell; we backed the steamboat away from the canal boat, and hove again, and didn't get it then; I then had my boat lowered—a jolly boat; sent my man with a line; made it fast to her, the canal boat; Vanderslice continued in his canal boat; we started ahead with the steamboat in order to tow her up to Gloucester point; as soon as we started the steam to go ahead with the steamboat the hawser became caught; the boat began to bury down astern as we went ahead, the hatches floated off, and the goods began to float off; we *was* compelled to ship the hawser from one side of the stern to the other, in order to fetch the place; we wanted to steer to Gloucester point to make the boat steer; I helped to ship the hawser myself; that was the only time I was on the lower deck of the boat from the time we took the Judge Royer until we left her; we succeeded, and got her to Gloucester point, full of water; she was sunk; she sunk directly after we shipped the hawser; Vanderslice got in some of the boats; there *was* several boats out; got in before she sunk.

July 8. *Examination continued.*

I do know Lewis M. Bell; I saw him the day this disaster occurred;

he came on board of my boat; he came from the Jersey shore; I never told Bell that I was in a scrape and did not know what to do; I did not ask Bell to assist me; he said he would do all that lay in his power to assist me, or words to that effect; he did [not] tell me to back my boat far enough to get steerage way on her; he did not tell me that I had better run one of my best lines; that the boat would go down before I could get her to the shore, and that line would do to tow her by; after we got the canal boat in tow, when we returned to her on the Jersey shore, the head of the steamboat was to the Penn'a shore; he did not tell me that it would not do to land the boat there on the muddy bottom; he did not tell that on account of the muddy bottom on the Penn'a shore the boat would mud; he did tell me that it would cost a great deal more to raise than on the Jersey shore; he did not come to me and tell me not to be alarmed, that we would land the boat above Gloucester wharf; he came to me and told me that if he was me, he [would] land the boat above Gloucester wharf, for it was his impression that the fishermen had driven the old man off, and that was the reason he did not reach land before; I never took a tow down as low as Reedy island; I never lay at anchor between Reedy island and the main shore in Delaware with a tow; I have been at Reedy island with a steamboat; I was never there in a towboat, and that was last 4th July three years; I had no tow then; it was an excursion of pleasure; this model, marked H, is pretty much a fair representation of the deck of the Judge Royer as it was when this occurrence took place; the portion of the stern of the Judge Royer, which was knocked off by the collision on the Jersey side, was the half of the piece represented in this model, mark in this model I; my impression is that it was a piece placed on the deck after it was finished; at all events it was not split off below the deck; the piece may now be seen on board the boat; I saw it one day last week myself; the competent number of hands on board a towboat in the Delaware is two, besides the captain; I attribute the loss of this boat to not having sufficient hands on board to cast the line off; I consider the injury which he received at the Point-house wharf as the cause of the loss; when the water is rough, and the wind adverse to the tide, and the boat laden and with a deck load, we bring her to the way we are going; that is the preferable way; if we had attempted to round to, the weather being stormy, as it was that day, it would have been certain that the boat would have lost her deck load, and would have been likely to have filled, and all on board drowned.

Cross examined by Mr. Brooke.

The draft of the towboat Superior is five feet water when she has the full complement of coal on board; I was not on the lower deck of the boat but once from the time I left Willow st. wharf until I arrived back to the ice boat, to the best of my knowledge; I mean the ice boat at the navy yard; the time that I was down on the lower deck was the time we were shifting the hawser to make the land towards the Jersey shore; I was aft at that time; the rest of the time I was in the pilot-house, and on deck

giving directions to the men when I was not in the pilot-house; there was no person there; the pilot-house is forward about 90 feet from the stern; I was acquainted with the depth of the shore on the Jersey side. I laid there once with my steamboat to put coal tar on her bottom at the very place; that was about 4 years ago; it was the steamboat Virginia; I laid there then one night and two days; part of two days and one night. When I was coming up to the Judge Royer the last time before towing her astern, if Capt. Vanderslice halloed anything to me, I did not hear it; when I speak of stopping and slacking of the steam, I mean I rang the bell for that purpose to stop and to slack. If I have towed canal boats with a less number than 3 hands, I have not been aware of it; I do not know how many hands Col. Lloyd had about that morning, nor the Forget-me-not. My boat, the Superior, is about 70 horse power; I think I have heard the capt. say, there are six hands all told; there were six of us that day—the capt., engineer, fireman, 2 deck hands, and a steward. There is a part of the windlass on the Judge Royer now; I do not know whether the windlass was there on the day in question or not. One of the windlass bitts, and a piece of the other, [is] there now; there is no windlass to her now; I do not know how the towing line was attached to the Judge Royer; all the machinery on the Superior is between the pilot-house and the stern; there is a portion of it stands up higher than the pilot-house; that machinery occupies about the same width as the pilot-house; the pilot-house is about 8 feet wide; the machinery that is above the upper deck is the cross-head, that plays up and down in the cylinder, which is boxed in in bad weather.

Re-examined.

The Judge Royer had a deck load on this occasion; the pilot-house is on the upper deck just forward of the machinery; it is closed in all around except right at the back part; it is closed in with windows; I, when I saw the Judge Royer on the Penn'a shore, I looked out of the window from the pilot-house, the wheel is in the pilot-house; that is the customary place of the captain of the towboat; I never was at sea but once in my life; I have followed the water from 1821 to No. 26. the present time; I have been a commander in the towboat the 15th day of August next. Before that I commanded a packet on the Delaware; I have been a commander about 20 years; my packet sailed from Cantwell's bridge to Philadelphia; there is a ring in the stern of the canal boat called the bow ring; the bolt of this ring goes through the stern or as close to the stern as it can be got, and the usual way of towing is to hook the tow line into this ring; the advantage of having the ring as near the stern as possible is, it makes the boat steer with more certainty, and obey her helm; if it is put back, she will sheer; it is not neccessary in regard to the person who is steering in the steamboat that he should be constantly in the pilot-house; if he sees any necessity for giving directions he can leave the wheel, and go out and give orders; when I rang the bell for the

boat to slack and stop; these orders were obeyed. The fenders are sometimes called the spurs; our's touch the water: in some steamers they are permanent; in ours they are not; I suppose the deck proper on that day was about 3 ft. above the water; the deck load was composed of barrels; it was *paced* on top of the hatches; it was full of barrels; don't remember whether one was piled above another.

Re-cross examined.

When I took that sea voyage I went to New York; it was about 15 years ago; I did not go as commander; I went as a passenger with my brother.

THOMAS C. METTS.

Taken, sworn, and subscribed, before me, this 8th July, 1847.

J. BURCHARD,
U. S. Com'r.

Know all men by these presents, that we, the Philadelphia and Havre de Grace Steam Towboat Company, have remised, released, and forever discharged, and by these presents, do remise, release, and forever discharge, Thomas C. Metts, of the county of Philadelphia, mariner, his heirs, executors, and administrators, of and from all and all manner of action and actions, cause and causes of action, claims, and demands, whatsoever, which against the said Thomas C. Metts we ever had, now have, or which we or our successors hereafter can, shall, or may have, for, upon, or by reason of any matter, cause, or thing arising out of, connected with, or flowing from, or in anywise relating to, directly or remotely, a certain proceeding against the steam towboat Superior, pending in the district court of the United States, in and for the eastern district of Pennsylvania, wherein Anthony Vanderslice, master and owner of the canal boat "Judge Royer," on behalf of himself and others, is the libellant; and we, the Philadelphia and Havre de Grace Steam Towboat Company, are the respondents; or to the supposed cause or causes of complaint alleged in the libel filed in that proceeding on the 30th day of May, 1846, and from all liability to us in consequence of the said suit, or of any recovery thereon, and from all right of reclamation in consequence thereof, or of the alleged causes of complaint in respect of which said proceeding in the said court has been instituted.

In testimony whereof we have hereunto set our corporate seal, and have caused our president to sign the same, this seventh day of July, in the year one thousand eight hundred and forty-seven.

SAML. C. MORTON, *President.*

Sealed and delivered in presence of—
CHAS. S. KEYSER,
W. WOOD LESLEY.

Attest: PETER LESLEY. [L. S.]

William Davis, a witness called and sworn on the part of the respondent, says: I am a deck hand on board the steam towboat Superior; I have been in that situation about four years, on and off; I remember the trip we made when the accident happened to the Judge Royer, about the middle of May last; when we left Willow st. in the morning, I heard Captain Metz, when I came up out of the hole—(objected to)—I heard Captain Metz call all the boatmen together; he told them it was not fit for them to go down the river that day, and if they must and would go down, they must go down on their own responsibility. I believe they said they all concluded that they would go; one of the boats we had in tow, his bow-ring pulled out as soon as he started; that one we left, and took on with the other two boats, and came on towards the navy yard, and the water being rough, it flew over them so that one of them concluded he would stop at the navy yard; he did stop; I forgot her name; it was the Forget-me-not, was the boat that pulled out her bow-ring; I think the name of the boat we left at the navy yard was the Lloyd; I asked the captain of the Judge Royer at the navy yard if he had not better stop—if we should not let go of him, too; he said, no, he would go on; she was good and strong, and he would risque her. After we had got apiece, I asked him if we should drop him from alongside, astern; he said yes, and then we dropped him astern; when we went to stand up after dropping him astern, he took a hard sheer, and had like to run the steamboat ashore; we had to stop her, the steamboat; while we had the boat stopped, she got into the trough of the sea, and began to roll, and rolled off some of the barrels she had on deck; then he concluded we should let him go at the Point house, and told us so; when we got down to the Point house we let him go; we dropped him astern with a long hook line, that he might sheer in; I hallooed to the boy, he had to unhook the line, and I slacked the line away; I kept slacking the line away until the boy was so small he could not unhook the line; I then let go of the line altogether, and told them then not to unhook it so as to lose it altogether. While I was hallooing to them to unhook the line, this captain of the Judge Royer leaves his helm and runs forward to help the boy unhook it; by the time that he had got back to his helm again, she had struck the wharf; then she drifted off from the wharf, and they let go her ancher; then we came back to her, made fast to her, and towed her over to the Jersey shore; I could not hear any conversation between the people on the canal boat and those in the steamboat, for I was aft; I don't know who it was first proposed taking her over to Jersey shore; I believe it was his son, as [he] said she was leaking, but I did'nt hear it, but the boy said so; we took her over there, and left her close in along the shore. On the lower side of the Glo'ster point wharf—I mean below the wharf—I suppose she was about 25 yards from the shore, in 6 or 7 feet water; we told him to pole in; I did not hear whether he said any thing back or not; we let go of him and started, and came up to town again; when we got about half a mile off of him, we observed he was drifting off again; he was then pretty well full of water; she was very

low in the water—had settled down very much—that's what I judge by; this was when we were about returning to her; we observed it for the first time; we turned round to come down the western shore, nearly abreast of her, and then rounded off to her to go to the windward of her to make fast to her again; the wind was blowing up the river, rather off the Jersey shore; her head was towards the Jersey shore; the boat, the steamboat being stopped, when we got close up to the canal boat, we stopped the steamboat; the engineer shut her off and stopped her; the captain rung bell for to go back; I was aft, but I felt the jar of the boat when we struck her stern; the wind was blowing hard, and we being high out of the water, the canal boat being so low and rolling, fetched her in contact with our bow; I could not say how far we steered to the windward of her enough to get alongside of her; the effect was produced by her rolling, and we rolling too; I don't know why we did'nt go to windward of her; we started to go; it was ebb tide; the tide was running down the river; the tide had the greatest effect on the canal boat, she being deepest in the water; the wind could not take hold of her, but it could take great hold of the steamboat, she being high out of water; after we stopped her we had no control over her, not after she was stopped; I can't tell what was the necessary effect of all this. That is all I have to say.

Question. Did or did it not tend to bring her right under your bow, the steamboat's bow, I mean. (Objected to.)

Answer. I was aft and could not see forward; I could not see how they came together; the canal boat must have been drifted faster than we were, she being low in the water, and that would bring her under our bow, I can't say no more about it; I didn't take notice of any thing; I would'nt state any thing; we had a line to her after that, and towed her to shore, till she brought up on the bottom, rather above Glo'ster wharf; I suppose we left her about 100 yards from the shore where she brought up on the bottom; then we left her and turned up to the wharf by the navy yard; I can't tell how big the boy was that was on the canal boat; by the looks of him, I think he was 10 years old; this man, Vanderslice, is a stranger to me; I don't know that I had ever seen the man before then, to know him; he is not an active man; he is very slow by the appearance of him; he is a very heavy man; his boat was quite an old concern of a thing; she did'nt look hardly safe to put goods into.

Cross examined for the libellants by C. W. Brooke, esq.

My duties on board the boat was to keep her clean, keep the lines in order, make the canal boat fast, that's all; when I have not been employed in the towboat, I have followed the water in other ways, oystering and wood shalloping; I am still in the employ of Captain Metz, and have been ever since this affair; this is Captain Metz sitting on the sofa by me, and William Pruet is this other man sitting by me; they have been there the whole of the time I have been giving testimony; the first name of the stewart was Silas; he was here during the whole time

I was giving testimony, until a few minutes ago; the line by which the Judge Royer was connected to the towboat was about the size of my wrist, something like three inches through it, one end of the rope has a hook to it, and is hooked in to the bow-ring of the boat, I suppose the hook is about two inches through; I could not say how long the hook was from the bend to the end of it, but I should suppose about 4 or 5 inches; I did not see the canal boat when she struck the wharf at the Point house; I was then aft on the towboat; I was on the larboard side; I had not been in that position more than 5 or 6 minutes; her bow went by the wharf-like, before she struck it; she struck on the northwest side of the wharf; she had gone by the corner when she struck; it was on the upper side of the wharf; I believe there was a steamboat in the dock at the time; I suppose we ran by the wharf a couple or three hundred yards, it was that time we came back to him; he did not get a line on the wharf, but drifted out; when we turned round, she had drifted off, he did not get his bow line fast; she had cast anchor before we got up; she let her anchor go about the time we were turning round; we did not stop until we came to her; we did not come in contact with her; we came alongside of her and got a line to her, and towed her over to Glo'ster point; the current at the point, at Glo'ster point, where we tried to put her in, sets pretty much right down; I did not take notice whether there was any thing laying at the wharf at Glo'ster point; I don't know the reason why the captain of the towboat did not bring the canal boat up at Glo'ster point; they took their poles and put them overboard once or twice, but we got off so far from her that I could not tell whether they were poling any more or not; I can't tell whether they were pushing her or not; I don't know who was the first one that discovered that the canal boat had drifted out; I suppose at that time we were half a mile from her; the Judge Royer was 3 or 400 yards from the shore when we got to her; there was not much difference from the time we saw her; we soon got to her; as we came down the river, I went forward once or twice; when we rounded of to her, I went aft to get a line, to get alongside of her; I continued aft; there was a batteau came off to us, or was rowing about there when we came to the canal boat; the first I saw of the batteau was just after we struck the canal boat; I saw Lewis Bell there; I don't know where he came from, unless he came from the Glo'ster side; he got on the steamboat somehow; I don't know how he got on; I did not hear any conversation between Captain Metz and Lewis Bell; I think the boy was aboard of the steamboat; I won't be certain; I did not take much notice to it; Captain Vanderslice got on board the steamboat, and then got into the batteau again; Captain Vanderslice was in the batteau while we were towing the canal boat back to the shore; Captain Metz all this time was aboard the steamboat, up at the wheel; the engineer's last name is Sutton; Benjamin Sutton is his name; I don't know what is the power of that steamboat; I suppose we were not more than 8 or 9 minutes from the time we turned round until we struck the canal boat; I know Captain Skellinger; he commands another towboat be-

longing to the same company; I can't say for certain, but I rather think he did that day come up with some boats; can't say how many boats; no accident happened to him or any of his boats, that day, as I know of.

Re-examined for respondents by F. W. Hubbell, esq.

This gentleman, Mr. Brook, has been sitting here all the time I have been examining. I believe I did not hear him object to those other persons being in the room, or request them to go out. The captain, Vanderslice said the canal boat struck the wharf; the wharf at the Point house. He said it to all of us.

WILLIAM DAVIS.

Sworn, examined, and subscribed, September 23, 1846, before
JOHN BINNS, *Com'r.*

Adjourned to September 25th, 7 p. m.

September 25th, 7 p. m. Parties represented.

Benjamin Sutton, a witness called and sworn on the part of the respondents, says: I was engineer of the steamboat Superior at the time this accident happened to the Judge Royer; my duties confine me pretty much to the engine room on deck; pretty much housed up. Just before leaving the wharf, Capt. Metz called upon me, (objected to) and wanted me to be a witness that if they went, they went at their own *risque*, the wind blowing very hard. I am not acquainted with any of the captains; there were three captains of canal boats. No. I suppose there were three captains, because there were three boats; there were a half dozen persons present, but I don't know who they are, excepting one man who was inquired for, and came forward; I did not hear his name; the captain of the steamboat asked where is the captain of that canal boat; the answer was, he is in the cabin of his canal boat; so he sent for him, and he came; there were then three canal boats lying by; this caution of the captain of the steamboat was after this captain of the canal boat who was sent for came; Captain Metz then said, addressing these persons, I don't know how he addressed them, if you go, you go at your own *risque*. I think none of them made any reply; we then started in a very few minutes; I don't think he stated why they went at their own *risque;* it had been talked of before among them, the rough weather; we started with three boats, broke one adrift rounding off the wharf; I was told she pulled the bow ring out; I didn't see it. Before we got to the navy-yard, one of the other boats, the Lloyd, requested to be cast off; I heard this; the fireman, our fireman, asked the captain of the Judge Royer if he had not better be cast off; he refused; he gave no reason as I recollect of; we proceeded on to perhaps half way down to the Point house, when it became so rough we had to drop him astern; she, the canal boat, rolled and jammed against the steamboat hard; after that we got across the swell; I don't know how that was; she rolled so as to roll several barrels off

her deck. I saw that; when we got to the Point house we cast her off; I don't know at whose request; I see her a sheering rapidly out from the wharf as if she had struck hard; we had got below the wharf then; she dropped below the wharf and anchored. I thought that I could perceive she was sinking very fast; settling in the water; we took her in tow the second time. There was a good deal of conversation; I could not tell what it was. There was a line got fast in our wheel; we had not proceeded far, when she came in contact with our wheel, and broke it badly; we towed her on or very near the Jersey shore; I don't know that she was on the bottom. We then left her and started up. After getting nearly a mile from her, I perceived her adrift again; nearly out in the channel; I went upon the upper deck to oil the slides, and there I saw her, and told Captain Metz immediately of it. I don't know that I was the first that saw her. Captain Metz was then steering; the wheel is in the pilot house; his face was towards the bow of the vessel. I told him it would not do to leave her there, as those men would certainly be drowned. He said he did not know she was there, and turned immediately round, and went towards her. I mean that the captain said he didn't know she was adrift until I told him. In going to her, he rung the bell to go slow first, that is when he got near her, and then to stop, and afterwards to back; soon after backing I felt the collision; all that I have just stated was done; we did go slow, we did stop the engine, and we did back the wheel. It was my office to obey those directions communicated by the bell. I could not tell whether we had any headway when this collision took place, being in the house; there was considerable sea; the vessel was not rolling a great deal at that time, nor pitching much at that time; she must have been rolling and pitching some; a clever sea; I mean by that considerable; we got a line to her again, at the second effort, perhaps; that I seen; we backed a good ways from her and come ahead again; all this I know from being in the engine house and what I did to the engine. After we got a rope to her we commenced towing again, and soon after she went down; we still kept on towing, and towed her as near the shore as it was prudent for us to go; cast her off and returned to the city. Part of all this time, perhaps all the time, Captain Metz was on the upper deck; I couldn't say he was at the wheel; the wheel might be left when the engine was stopped. I have seen the wheel left frequently when the engine was going. Some vessels will run steady a long while; it would be according to circumstances—the wind, and the tow, whether this vessel would; he left the wheel while he was getting a line to the boat; for what purpose I don't know; I think I did hear him giving some orders in regard to the rope; I was engineer and master of the South street boat ten years before this; I have been engineer of the city ice boat; I think six or seven winters; when the boat had struck at the Point house, I did not hear Vanderslice say any thing as to the condition of his boat; I should think I did not hear all that he said; I had not an opportunity to hear much; I saw a man of the name of Lewis Bell; he came aboard the

steamer; he helped to shift a line from the larboard to the starboard quarter of the steamboat; after the canal boat was ashore, he passed a line from us to the shore; the line that was fast to the canal boat; I think I did not hear him advise or direct what should be done in the steamboat; I don't recollect that I did see any loss of presence of mind on the part of Captain Metz; I have known this Bell, I expect, four or five years; he has had a command, transiently, of a steamboat; the Glo'ster ferry steamboat; I have known him to have charge of it on Sundays; I don't know that he had other days command; I thought it was pretty apparent that this canal boat was settling in the water after she had struck on the Point-house wharf; there was aboard the canal boat the captain and quite a small boy; I should take him to be from 12 to 14 years old; the best way to tow in rough weather is astern; I have had experience in towing in the ice boat, and in the towboat Delaware, which belonged to the Old City Towboat company, Captain Skellinger and Captain Bennett were at different periods captains of her; I was not looking particularly the courses we went; when we went down to the canal boat before the collision, I was not looking at the courses we steered, I was looking at the engine; Captain Metz had the management of the boat then; I don't know that he was at the wheel about that time; I did not see him any where else; I have not a particle of doubt he was at the wheel; he must have been there, for he rung the bell attached to it; I am not positive how many years he has been commander of a steamboat; I have known him about 3 years in that capacity.

Cross examined by C. W. Brooks, esq.

The power of this steamboat is 60 or 70 horse, I think; the house in which my duty is, is near the centre of the boat, as near as may be; it is enclosed all round with the exception of two doors; there is a skylight or window over head; the upper deck does not cover the whole of the forward deck, not within thirty feet of the bows, and extends from that clear back to the stern; I should suppose the wheel-house is about six feet from the front part to the upper deck; a very small portion of the sides of that boat are enclosed, except the wheel-house; the water wheels are 17 feet in diameter; the engineer's house is directly between the two water-wheels; there is a small sleeping-house on each side abaft the wheel-house; they are about 5 or 6 feet long, and extend to the upper deck; I think the whole length of the boat is 140 feet; the fireman would occasionally assist me to work the engine or stop her; I have let him start her ahead, being very close to him; I have done so several times; can't say I make a practice of it; I have been absent from my post a little ways off, in sight generally; the name of the fireman at that time was Louis Mitchel, at least we called him that; he is not now aboard the boat; he was on board the Com. Stockton the last time I heard of him; he asked the captain of the Judge Royer had not better be cast off; at the time the Judge Royer was cast astern;

I don't know that I heard any conversation between Captain Vanderslice and any one on board the steamboat; I do not recollect whether there was a steamboat in the dock at the Point house; I should think we went down the river past the wharf at the Point house a 100 yards; the Judge Royer did not drift out but a very little distance; she was close to the shore; I could not, from my position at this time, tell in what manner the steamboat approached the Judge Royer; the Judge Royer was laying up and down the stream, bow up the stream; it was ebb tide; Idon't recollect, or I'll say I can't tell, whether the steamboat came up in a parallel line with the canal boat; I can't tell whether the steamboat came up to the Judge Royer on the Pennsylvania side or the Jersey side; the canal boat was fast to the steamboat at the time the accident happened to the wheel of the steamboat; I know that fact, because I went up to look at the wheel and saw the steamboat fast; we had then gone perhaps 100, 150, or 200 yards from where the canal boat was at anchor; I did not see the canal boat strike the wharf; I did not see the hands in the canal boat poling after we left them at the Jersey shore; I seen a pole overboard, I believe not more than one; I don't recollect whether I returned to my post immediately after I went up to the wheel house upon the accident to the wheel; I don't recollect where I was when I saw the pole out; we paid no further attention to the canal boat after we cast her loose on the Jersey shore; it would be altogether guess work to say how long we were in coming down to the canal boat after we saw her adrift; from my position in the engine house, I could not see who was at the wheel on the pilot house on the upper deck; when I was up oiling the slide, I don't think any one was on the upper deck but the captain and myself; at the time when we approached the canal boat this time, I cannot swear the capt'n was at the pilot house when the bell rung; I did not see any difference when the capt. rung the bell; I could not see the capt. there; the person who rung the bell must have been there; the reason I am so positive, I never knew the rest of the men to ring the bell when the captain was on board; I do not know in what relative position the steamboat was to the canal boat when the bell rung; I don't know whether she was above or below the canal boat; I conjecture she was above. (Objected to, but insisted to be put down by Mr. Brooke.) I do not know whether the steamboat was above or below the canal boat when she struck the canal boat; it was not a violent collision; it jarred the steamboat very little; just enough to know that she had hit something, or something had hit her; I remained in the engine house all this time; I saw nothing of the hitting part of the occurrence; I can't recollect whether I heard Lewis Bell say anything to the capt. or the capt. to him; I don't know where Capt. Metz was at the time of the striking or hitting part; I did not, that I recollect of, hear Bell say anything to the capt. when going after the goods [that] were going adrift, nor do I recollect whether the capt. said anything to Bell; the next time I saw Metz after I saw him when I was oiling the slide, was at the time of shifting the line from the larboard to the starboard side; that was after the collision; he was then on the after part of the

4775.

lower deck, while we were getting fast, or directly after we got fast; I don't suppose anybody was then at the pilot house when the boat stopped; don't recollect to have heard any conversation between the capt. and Bell; the New Jersey plied between Glo'ster point and Chestnut street, and Almond-street wharf; it was understood Bell commanded her then; I can't tell how long; I do not know that Bell at any time commanded a sloop.

Re-examined by F. W. Hubbell, esq.

Bell might have had command other times than Sundays; he might have been through the week, but I was not familiar with the case; I always thought the agent of the boat, Capt. Tatem, to be the commander; I may be mistaken.

BENJ'N SUTTON.

Sworn, examined, and subscribed, Sept. 25, 1846, before
JOHN BINNS,
Com'r U. S. C. C.

Adj'd to the 28th, 5 p. m., and the 29th, 5, p. m.

October 5th, 4 p. m. Parties present.

William Skellinger, sworn. I am now capt. of the steamboat Pennsylvania; I was brought up a Delaware pilot; served my time in this river; the Pennsylvania belongs to the company which is def't here; I commanded this same boat, the Pennsylvania, and the Delaware, over ten years ago; we were employed in towing vessels to and from the Capes; the Pennsylvania belonged to the old towboat company; after I left the old towboat company, I went to piloting again, and joined this company in 1841. I remember the day on which the disaster took place, which is the subject of this suit; I noted the day of the month on the Pennsylvania's log-book; nothing about this occurrence, because I did not know it; I keep a regular log-book on board this boat, and keep an account of the wind and weather, and also note the boats I tow, and how I tow them; if it is blowing heavy, I note it, and if I have to drop them astern on that account; I think this occurrence was on the 15th May. I left Delaware City in the morning of that day after daylight, may be betwixt 8 and 9 o'clock; I left with five boats astern; I had to tow them astern, it blowed so heavy; I could not tow them alongside, until I got over on the weather shore; when I got over on the weather shore, the Jersey shore, I hauled them up alongside; the wind was about southeast, which made that the weather shore, and there being a flood tide, the water was smooth; the tide and wind running together made the water smooth; if the wind and tide had been adverse, it would have made it very rough in the river Delaware; I arrived at the city of Philadelphia in the afternoon sometime; I can't say the hour; the Superior was at the wharf when I came here, down town, lying at her berth; she had then been down

on this trip, and returned; it was ebb tide here in the morning may be till 11 o'clock; I don't know what time it was high water here that day; the water at our wharf generally rises and falls about six feet on average; according to my experience, it is safest to tow a canal boat alongside; you can't tow a canal boat alongside in this river in rough weather; it was rough that day, very rough, where we *was*; we ventured that day, because the boats were locked out at the Delaware early in the morning, a little after sunrise; I took them, because, if they remained, they would be locked back, and I knew if I could get them over to the weather shore, I would do well; the canal boats that run night and day generally have four men and a boy, and those which only run by day generally have three, two men, and a boy to drive; when they are being towed, they generally have that number; that number is necessary all the time, as well when being towed as not; the difference is, when the boat is alongside, the hands have nothing particular to do but watch their boat, and attend to the pump, and if anything occurs, that they may be ready; when they are towed astern, their duty is to steer the boat, and attend to the line, and see that it don't chafe off when there is a number in tow; when we are towing one or two boats we give the near boat to the stern boat a line; and the other boats they make fast to the stern ring of the boat before them; when one of these boats is to be cast off, it requires one man at the helm to stay there, and the other two or one man to cast off the line; if there be a strain, one man takes off the strain and the other unhooks it; when they are cast off and approaching a wharf, one man generally stands by with a fender, if they are going pretty fast, and the other stands by to heave the line, if there be any one to take it, or if not, to jump out himself; and one man, the third man, continues at the helm; the man at the helm leaves when they get the rope ashore and the boat is fast; it is important that the man should remain at the helm to guide the boat until she is made fast; at times the unhooking and casting off the line requires much strength, particularly when much line is out; that is a most critical and important time for a man to be at the helm; the capt. of the steam towboat generally steers the boat in landing and taking boats alongside; it is not necessary that his hands should be kept on the steering wheel when the boat is stopped; when she is not stopped, it requires some man at the wheel to steer the boat; I frequently leave it for a few minutes to see the state of the tow, without leaving any one at the wheel; the man at the wheel can't see objects close to the vessel, he must step out of the wheel-house to see; the boat will keep on her course; the engine, when he does this, is commonly going very slow, and that enables her to keep on her course; in the course of my towing, the number of hands of which I have spoken have been generally employed in the canal boats; with a less number of hands, in my opinion, a boat would not be in a seaworthy condition. I have been acquainted with Capt. Vanderslice some time; I have towed him sometimes; I towed him in 1841, in the Judge Royer; I don't know but this boat,

now in question of the same name, may be a new boat. From 1841 to 1846 is a space of time in which a canal boat is pretty well worn. Last week I saw the Judge Royer; we towed her up to the city by the Penn'a; she is a Schuylkill boat; whether an original boat or a boat that has been raised upon I can't tell; these boats have flat decks with hatches in the middle of them, fore and aft. The Penn'a or Lewistown boats have a kind of light deck over or above their main hull; the Judge Royer has not a roofing on her that ever I saw; I have seen her empty and laden, and she had none that ever I could see; I believe they call such boats roof-decked boats. I suppose Capt. Vanderslice is over 60 years old. At the canal we don't generally land them at the wharf; they generally run in or pole themselves in; that requires 3 men, two to pole and one to steer. There is an eddy above Gloucester point, on the Jersey shore, caused by the wharf; there are two piers built out by the factory; this eddy is between the point wharves and the piers above; the flood makes more whirl than the ebb, caused by the flood tide coming out of the cove; this eddy is not so much below the wharves on the flood as it is on the ebb; this eddy would not prevent a canal boat from getting to the shore, if she had any way upon her, or could get to the bottom with poles; it is a kind of slack water; that poling would require two hands besides the helmsman.

Cross examined by C. W. Brooke, esq.

I have this log-book, of which I have spoken, on board my boat. It was going flood when I left Delaware City; I suppose I was an hour and a half when we passed New Castle on the Jersey shore. It was flood tide when we were abreast of New Castle; it was young flood when we left; it was smooth water after we passed New Castle; we were about six hours coming up to Philad'a from New Castle; I disremember what time we passed New Castle; we left Delaware City about 8 o'clock; can't state exactly; light tows—we don't carry very heavy tows; don't calculate to go fast; we calculate to save all the fuel we can. No accident that I know of happened to any of the boats I had that day in tow. We brought the whole five boats up to Philad'a from Delaware City; they were all loaded boats; the boats generally drew 3 feet; that's what they draw in the canal; I believe they durst not load any deeper; I believe, I never was in the canal; I get this from the canal men. I don't know what the boats do with their horses when they get to Delaware; some take them in tow; some put them in stables, and some carry them in their boats. I don't know anything about their business ashore. I have heard them say they left a boy sometimes with the horses; they did when they first began, but since then I don't know whether they do or not. They don't fetch as many horses with them as they used; they leave them at Havre de Grace. There is difference in the tonnage of the canal boats we tow. When I spoke of the complement of hands I spoke of all sized boats, even the Union canal boats, when they go down to the tide-water canal.

All canal boats that ever I towed required the same number of hands; I speak of the tide-water canal boats. Last week I towed up three boats; one loaded with coal and two with lumber; I don't know how many hands these boats had aboard. There were twelve boats in that tow; we had boats alongside, and these Schuylkill boats were behind the others on the larboard side. In regard to the men on board these boats one of Capt. Vanderslice's men told me Capt. Vanderslice was sick, and I think there *was* then two hands on board his boat; I did not notice any of the Schuylkill boats in particular; I am in the habit of noticing the number of hands on the tide-water boats, because there we have to turn them all out in the night; in fact any time when we are taking the boats along side; we never towed so many of the Schuylkill boats; it is only lately we have got to towing them. My practice in coming to the wharf when the tide's against me with a tow, is to round to. I know there is plenty water all across there at Glos'ter point, from one shore to the other. The eddy of which I have spoken I have frequently witnessed since that factory has been built, or while they were building it.

Re-examined by F. W. Hubbell, esq.

We never tow any Schuylkill canal boats except when they go through the Chesapeake and Delaware canal. If I were towing boats down the river, and the tide was ebb, and one should ask to be cast off at the Point-house wharf, I could run in between the two wharves, if I had only one boat to land that wanted to run into the mud. There is slack water between those wharves; the water is very steep close in there. That could be done with entire safety, because it is steep; she could be got off at low water. If I wanted to land at the wharf, and there was not too much sea, I would have to round to if the steamboat was lying there. If there was too much sea that I could not round the boat to, I should let her run into the mud. There is danger of rounding to with those boats if they have any deck load on, as they are apt to roll it off; thus, in my opinion, the safest plan would be to land her on the mud. They generally have a fender, or a pole to bear off when they approach a pier, and if attempting to let a boat run on the mud she should fail and approach the pier, that ought to be done.

Again cross examined by C. W. Brook, esq.

In attempting to run the boat on the mud, we would certainly slack our speed.

Again re-examined by H. W. Hubbell, esq.

The same thing might be done by slacking off the rope, if there be any way on board the canal boat to jerk the rope off quick. The proper way to do it, is also to slack off the steam.

WM. SKELLINGER.

Sworn and subscribed October 5, 1846, before

JOHN BINNS,
Com'r U. S. dist. court.

William Elsea, sworn: I am an engineer on board the Pennsylvania; I have been in that capacity now about six years, of first and second engineer; I am first engineer now. I was in the old towboats under the old towboat company; I have seen a good deal of towing; I know Lewis Bell by sight; I am not personally acquainted with him. I never knew him to command a steamboat of any sort. The right way to tow a canal boat in rough weather from my experience is to tow her astern. The steamboat from being ahead breaks the sea off, and she does not thump against the steamboat, knocking her to pieces. The canal boat by knocking against the steamboat would cause the canal boat to leak, therefore she is dropped astern. Three hands is the proper number for a canal boat, the captain, bowsman, and steersman; that is the usual number that are on board the canal boats that I have usually been among, both on the Hudson and Delaware. I have towed on the Hudson river; the captain takes command and gives directions what's to be done. I've *saw* the captain at the helm often; the bowsman takes care of the rope.

Cross examined by C. W. Brooke, esq.

There is no difference as to the size of these boats as to the complement of hands. I never run on a canal boat in the canal, my experience has been on the river. I was on board the Pennsylvania the day the accident happened to the Judge Royer; I can't recollect the day. It was a very stormy day, a very rough day. I can't recollect what time we left Delaware City, the wind was about sou'-sou'-east; can't recollect the state of the tide; brought all our boats up safe.

WM. ELSEA.

Sworn and subscribed October 5, 1846, before

JOHN BINNS,
Com'r dist. court, U. S.

Adjourned to October 6, 4 p. m.

October 6, 4 p. m. Parties present.

Josiah Mitchell, sworn: I am one of the crew of the steamboat Superior; I am cook on board. I have been in that vessel going on three seasons. I was on board the Superior when this accident happened to the Judge Royer; it was a very blustering, windy day. The time we started from the city can't say; 'twas early, a little after sunrise; I don't recollect how many boats we had in tow that day. My occupation is forward; the cooking room is forward. The first I knew of the concern was, I saw the boat taking in water in the forecastle. The foreward hatch of the canal boat was left off by the captain; that was between the navy yard and the Point house. She was then towing alongside. I went up to the wheel house to the captain, to let him know that the hatch of the canal boat was off, and she was taking in a good deal of water. He called to his foremast man to drop her astern, on my telling him this. Mr. Fruit was the foremast man; he dropped her astern, and when he dropped her astern she began to roll, and rolled

several barrels off her deck; I don't recollect all her deck load, but she had barrels of fish or pork, a good many barrels; I don't recollect what the conversation was afterwards between the captain and the men of the canal boat; they had some conversation; the next I saw, the boat let go, and the next was the captain of the canal boat left his helm and run forward to the line, as the boy could not unhook it; before he had got to his helm again she had struck the wharf; we kept on then apiece below the wharf, and shut the boat off; we saw the canal boat drifting out from the wharf, and we went back for her; we hitched on to her again, and took her down apiece further below, hauled her up a longside, and we took her over to Jersey shore. There we let her go near the shore, rather below the wharf on Jersey shore; rather a little way below; we let her go in poling bottom, close enough for them to pole her in, and we come head up the river after leaving her in poling bottom; this I saw, what I have already stated; I don't know what the conversation was between the men of the steamboat upon rounding to, but we did round to and go back; we aimed to get to the windward of her; we missed it; the wind blew so hard, the way we were heading across to New Jersey, took the steamboat, that we missed her. The tide was running down and the wind up, and we tried to get below her; we went close enough to get a line to her. Before we got the line we went against her stern; our head was to the Jersey shore, and her head was to the Jersey shore. The engine was stopped before we struck her stern; we tried to get to the windward below her, and before we got to her we stopped our engine, and the tide carried her one way and the wind us the other way, until she got under our bow; I was right forward on the steamboat, at the capstan. The captain of the steamboat rang the bell to go back; the forward revolution, which was made before the engine was stopped, still drove her ahead, and, before the back revolution brought her up, she struck; we then got a line to the canal boat, and the wind blew her off, far off from the steamboat, and we hauled her up again. She struck her pretty heavy; I did not see any injury done; I ran then and looked over; I was already abaft; I did not see any injury done at all. The canal boat went right ahead; she was not pressed down; Captain Vanderslice was then standing forward; that was immediately after we came in contact; I looked over and saw him at the bow of his boat; he was not standing knee deep in the water. When we hauled her alongside, the sea took her under our guard and against the wheel of the steamboat, when the sea raised the canal boat up against the steamboat, and done the canal boat injury. That's all I know, sir; I went about my cooking; I was getting on my dinner.

Cross examined by C. W. Brooke, esq.

I am still in the employment of Captain Metz; he has the same hands now he had when this accident took place, except the fireman; we have been running together all summer; yes, sir, I believe there has been some conversation about this matter. The fireman is my

brother; the fireman is now in South street, sick; I have not had much talk about these things with Captain Metz since Captain Metz asked me if I recollected what was acted, as I have already related. I told him I did. He is not the only one I have had conversation with about it; that was with my brother, and I don't recollect what it was; I was once present here when one of the witnesses, Wm. Davis, was examined; I do not recollect that anything was said by any of the hands, when the canal boat dropped astern, by the captain, or to him; I stayed forward as I was; I went down on the deck from the wheel-house; the steps are forward; it was against the old canal wharf she was dropped astern; it was nearer the navy yard than the Point house; I went to get my dinner ready. The kitchen is on the starboard side of the steamboat; there are two windows looking out of the kitchen; I went down stairs immediately after I told the captain this; I don't know whether there was any conversation when she was cast loose; yes, I do; I thought, at the time she was dropped astern, the captain hallooed to one of the men, "you had better drop that boat astern." When the rope was asked to be let go, I did not hear what conversation there was; I do not know, of my own knowledge, whether there was any conversation at that present time; I was standing at the side of the kitchen of the steamboat on the starboard side; standing at the side, not looking out; when the line was unhooked, they hallooed to the boy to unhook the line; the men of the steamboat hallooed; I heard them; I did not then do anything but look on; I was outside of the kitchen on the rail at the side; the boy could not unhook the line; they paid out the rope until the canal boat got far away from the steamboat; I do not recollect whether the rope was taut or slack. The steamboat at that time slacked her speed; I recollect it well; I heard the bell, and was looking at the engine; they began to slack their speed as soon as it was hallooed to unhook the line; the canal boat was then at some distance from the wharf. If there had been a man there the boat might have been unloosed; we were 50 yards, at the least calculation, but not 100 from the wharf, when our speed was slacked. The canal boat was 50 yards from the wharf; I did not see her strike the wharf; she ran right in past the corner; I saw her fetch up; that was against the wharf; the end of the wharf prevented me from seeing her strike it; she then drifted off from the wharf. The captain of the canal boat left his helm, and ran and unhooked the line, and that's the way she got loose from the steamboat; don't recollect if there were any men about the wharf; there was a steam ferry boat; don't recollect if any men was on board of her; I don't know how far we got below the wharf; it was a small piece below. After we came up, we did come in contact with the canal boat; don't now how far she was then from the shore. We came close enough to get a line; that was what we aimed. No part of the steamboat, at that time, touched the canal boat; I am sure of that. I watched the canal boat until she got to Glo'ster point; I don't know how she was cast loose there. The poles were put out by the canal boat. I watched the canal boat until we got head up the

river; then I could not see. We put our helm toward the Jersey shore, and brought the boat head up the river. They were poling at the canal boat until the wind took her out of poling ground. Don't recollect what distance we went up the river before we turned about to come up; we were not a great while before we rounded to, to go back to the boat; I suppose a quarter of an hour. The steamboat was going slow; can't give any calculation as to speed. We were waiting to see whether the canal boat would get in or not; I know it from the captain looking out of the wheel-house; I was forward also on the lower deck. I don't recollect as he said anything; he was watching the boat. At the least calculation, the steamboat was about half way across the street from here, from the canal boat, when the bell rung to slack; I mean measuring from where we are sitting, across the street. The bell rang to stop going ahead; I suppose in two minutes after it rung it stopped going ahead; I know the boat backed by the revolution of the wheels; I was forward yet; I did not see the wheels go back, but I *see* the engine work back. I never heard any such conversation as "My God, he is going to run them down." There was not any batteau about there at all; I did not see any. I have seen Lewis Bell; don't know him. The first of my seeing him was that day. After this accident, he rowed to us from the shore; I mean after the steamboat ran into the stern of the canal boat. There was nobody in the boat but Lewis Bell himself. This I do recollect; only two persons on board the canal boat, a man and a boy, when we ran into her. Lewis Bell did come on board the steamboat after this accident happened; I don't recollect that he was on board of the canal boat at all; I do not recollect how many attempts were made to get a line to the canal boat. After we got hold of the canal boat, I went about my cooking then immediately. I did not see anything more about the occurrence. When Mr. Bell rowed off to us, I helped to take his boat on board of the steamboat right away; he was not on board, nor did not see anything of the accident when it happened. I don't recollect anything more. Capt. Vanderslice's boy we took on the steamboat after the boat was struck. Capt. Vanderslice remained on board the canal boat after she got fast to the towboat. I do not recollect whether the hatches were on the boat this time or not; she appeared to be deeper in the water than when I first saw her.

Re-examined by F. W. Hubbell, esq.

Question. Are you quite certain that the rope was not thrown from the steamboat when she was cast loose at Gloucester point?

(Objected to.)

Answer. When the captain ran to unhook it, she had got so far off that we had to slip it, I did not see him unhook it, but he ran forward to do it; by slipping, I mean letting the end go from the steamboat; that is, to cast it loose.

his
JOSIAH ⋈ MITCHELL.
mark.

Sworn and marked, October 6, 1846, before
JOHN BINNS,
Commissioner, U. S. district court.

William Truett, sworn: I am one of the crew of the steamboat Superior; a deck hand. I was on board when this accident happened, on the 15th May. We rounded off from Willow st. with three boats; one of them pulled out the bow ring, and was left behind. Before we got abreast of the navy yard, the captain of the Lloyd, one of the two remaining boats, wanted us to land him, that is, his boat. When we got down pretty near the ice boat, we told him "sheer in there;" Capt. Metz asked the captain of the Judge Royer if he would not be landed there to. He said not; there was no danger. After we got below the canal wharf, Capt. Metz sung out to me to drop her astern of the steamboat; we done so; we got such a heavy sheer on us, we liked to run the steamboat ashore. We backed off, and got started down again, and he rolled some of his barrels off. Before we got down to the Powder wharf, he sung out to us to land him somewhere along shore. Capt. Metz told us to tell him to run in on the upper side of the Pointhouse wharf on the mud; we stopped the boat off, and let him go; he did not get the line unhooked; we let our line go, and it looked to me as if he ran into the wharf very hard. He did not get no line out, and drifted off; Capt. Vanderslice was at the helm; I never *see* him leave the helm; but I was not aft all the time looking at him; I ran forward to let go the line. We let our line all go; we slacked away, and I run down to get another to bend on to it, but it was gone; I mean the line fast to the boat was cast off before I got back. After he drifted off, he let go his anchor. We rounded to again, and came to him to tow him somewhere. We got a line to him; he got his anchor, and we started the steamboat ahead, and someway she got under our fender, and against our wheel; broke out 3 arms, and then we got her cleared out and headed over to Jersey shore. I saw that rope which was cast off get round this wheel before it was broken. When we came up alongside, they had not hauled the rope in on board the canal boat, and our wheel *catched* it, and wound it right round. That did not bring the boat against the wheel; it was got off before that happened. We got her sheered off and started over to the Jersey shore. The capt. of the canal boat sung out to us to land him somewhere, for he was sinking very fast. We run over on the Jersey shore on a sand bottom, and let him go below the wharf, about 60 yards, I suppose. The shore was about 30 yds. off; that was as near as he could be taken. Capt. Metz told Capt. Vanderslice to pole in; he went at it, and we left him. We got up apiece, and the engineer came up and told the capt. he thought the canal boat was drifting off; so we turned and went back to her again. We run along down again and rounded up for him from below him. Capt. Metz sent me aft to get a line for him for the larboard quarter. She was coming down so fast we did not get

to the windward of her. The steam was stopped before we got to her. The bell rung for the wheels to go back; can't tell how much they went back, whether a revolution or a half an one. Then we lowered our boat and run a line to her. The tide took her so much faster than us, and the wind blowing up took us so much faster than her, that it brought her stern right under our stern; then we got backed off and lowered the boat and run a line to her. His little boy was taken off and brought aboard our boat. I should judge him to be 10 or 12 years old. Capt. Vanderslice, out off our boat, got aboard a fish boat; then we started ahead; the hatches came off, and the goods began to float out. We towed her up above Glo'ster and let go of her in one fathom water about 30 yds. from the shore. She went to the bottom. Then Hugh Bell had a little boat aboard of us; we launched her. Mr. Bell and the boy got in her. Capt. Metz asked Bell if he would take care of our lines and bring them over to us. Bell took the line; he got a small line belonging to the canal boat and bent it on to our line; that was aboard the canal boat and took it to shore, the end of it.

Cross examined by C. W. Brooke, esq.

Capt. Metz the last time told me to get a line on the larboard quarter toward the stern, as we were going below the boat; that is, to windward of her. We failed then and backed off. We came a little ways ahead, and the steamboat stopped, and we lowered our boat, and then we succeeded; but two attempts. I did not take much notice of Lewis Bell until he was aboard, and we hauled his boat up; a flat bottomed boat. I did not see Capt. Vanderslice at any time on board the canal boat up to his knees in water. When the stern of the steamboat struck the stern of the canal boat, the stern of the canal boat was very little pressed down in the water. I did not see it. I was aft the wheel leaning over the larboard rail, looking forward when the boats struck. Capt. Metz was in the pilot house when this happened. I had not seen him out all the time. I did not hear anybody on board the steamboat exclaim, "My God! he is going to run them down."

Question. Did you hear Capt. Vanderslice or any one on board the canal boat say anything at this time?

Answer. No sir, I did'nt.

his
WILLIAM ⋈ TRUITT.
mark.

Sworn and subscribed, October 6, 1846, before
JOHN BINNS, *Com'r U. S. D. C.*

Andrew Muller, sworn: I command the steamboat Robert Wharton which plies between Gloucester point and the Point house. I was on the Point-house side the day this accident happened to the Judge Royer. I saw the Superior coming down with a canal boat in tow; the name of the canal boat I heard, but have forgotten. I saw the

steamboat Superior at the Powder wharf when I first took notice of her; then she came about half way from that wharf to where I was; she stopped at the Point-house wharf. I stood on that, and my steamboat was in the dock; she stopped about half way, then she drifted down to our wharf: then before she drifted down to our wharf the canal boat run foul of the wharf on the upper end of the wharf inside. The rope was slacked off first when the steamboat stop't. I stood on top of the slip and saw it; saw a boy that wanted to undo the line and couldn't. I suppose the boy wasn't strong enough. (Objected to.) After that I see the canal boat drifting down the river; when she struck the wharf, then she went back into the river again; she was loose from the steamboat then; the steamboat had let go of her line. I don't know which the line belonged to, the canal boat or the steamboat; she drifted down to our wharf before she let go her line, but she had slacked off the line; when the canal [boat] drifted off into the river again, then the steamboat went to her again and towed her over to the Jersey shore. I went over on the other side of the river in our steamboat. I didn't get there in time; the canal boat was off again, drifted down the river before I got over. I seen when she got over on the other side, the steamboat left her on the Jersey shore. I was then on the other side; altogether on the Point-house side when she left her; she left her below Glo'ster point, you might say about 3 or 400 yds.; there is a kind of eddy tide from our wharf, which lets the tide in there with a kind of eddy made by the wharf; it don't make so much tide there in shore as what it does out. I should not think if a man looks out the tide doesn't set in there very strong; the steamboat left her there; the canal boat on that side of the river; the Jersey side of the river when a vessel is trying to get on the shore below the wharf, the wind might drive her off, but I don't think there is any tide that would; the steamboat left her on the Jersey shore, and she went about a mile up the river, the steamboat did, and the canal boat drifted out again in the stream, and went down the river; the steamboat come back again, and what I see then, the boat was sunk and under water, and they towed her above our wharf as far in as they could, until she was aground, and made her fast; I did not see Capt. Vanderslice leave his helm when the steamboat was between the Powder wharf and Point-house wharf, and had stop'd the steam; I did not see any body go to help the boy at the line until the boat struck; I think the capt. did run to the line, but I am not positive about it; this was just about when the boat was striking; that boy was about 13 or 14 years old, and about that high.

Cross examined by C. W. Brooke, esq.

The Powder wharf may be about 500 yards above the Point-house wharf; I did not see the wheels of the steamboat go backwards; I saw the boat stopped; I mean her machinery stopped; she did not at that time come very fast; the steamboat Whillden met her, and then she sheered in the open space between the two wharves towards the shore;

the Whildin passed on the inside; she was between the Superior and the shore; I don't think she had considerable headway on; I don't recollect that I did hear Capt. Vanderslice halloo to those on board the steamboat; she struck the wharf pretty stiff; I looked at the wharf afterwards; it appeared to me the plank was knocked in between a quarter and a half inch; I won't be willing to swear that Capt. Vanderslice left his helm to help the boy, or for any purpose; it seems to me the man moved; I am pretty confident he left his helm, but I won't swear to it; the rope was slack down at first, and it run that way a good while, clean from the place where the steamboat stopped her machinery; then I don't recollect, *that* I always thought the man pulled the line taut again; the line was not taut when she ran against the wharf, but I would rather not say much about that; I looked at the steamboat then; I think the steamboat was about half the length between the wharves; the Point-house wharves; that is, the steamboat was about half her length above the wharf when I thought she tautened her line a little; I saw the men hauling on the line, one half the steamboat was above the wharf, and the other half opposite the wharf; the canal boat was then just about going to strike; the rope was nearly all slacked off clean to the end; the rope laid in the water from half-way between the Powder wharf and the Point-house wharf to where I tell you; I stood right on the head of the slip; I did not tell you, Mr. Brookes, at the Point-house wharf, that I was not on the wharf, that I was on my boat and did not see much of what passed; I don't recollect what I did say to you; I told you it would'nt be no use, that I would'nt do no good to either party; one of my hands that day stood alongside of me; his name was Power; he did stay alongside of me all the time; I don't know where the other hand was; I talked to John Powell about the wind; he said the wind was northeast, and I said it was southeast; I came up to-day myself in the Washington steamboat; I was at the Jersey side when the Superior came up and caught the canal boat the first time; I was at the Point house when she towed her in to the Jersey shore; when she towed her in the last time I was going over to Jersey shore, and wanted to let her pass; that eddy had no tendency to carry out the canal boat; if it be any wind as comes off the shore, an easterly wind, it might carry her out.

ANDREW MULLER.

Sworn and subscribed, October 12, 1846, before

JOHN BINNS,
Commissioner, D. C. U. S. Pa.

John Miller, sworn: I was steersman of the canal boat "Forget-me-not" when the ring-bolt came out, and we could not go down on that account; Capt. Vanderslice was there for one; the other I did not know, and there were but three boats; Capt. Metz sent one of the captains to call me; he told us the wind was blowing very heavy, and that it wasn't safe for us to go down; if we did go, he said we must go on our own responsibility, and he wouldn't take no risque, the wind blew

so; I am quite certain Capt. Vanderslice was present when this was said; we were all standing round; I told Capt. Metz I would go, and did go, till the ring bolt drew out.

Cross examined by C. W. Brooke, esq.

Both the other boats started; the weather was pretty rough; I did consider there was some danger; if the boat had been my own I wouldn't have started; I started because the owner had gone down to Delaware City, and had bid me meet him there; the owner was Mr. Coleman, who lives close by Poplar lane.

JOHN MILLER.

Sworn and subscribed, October 12, 1846, before
JOHN BINNS, *Com. D. C. U. S.*

Hugh Harberson, a witness produced and sworn on the part of the respondents, deposes and says:

My occupation is an officer of the customs. I remember Mr. McMurtrie and Mr. Snyder coming down to make the survey. I did not go down in company with them; I reside at the Point house. I did not see any collision between the canal boat Judge Royer and the steamboat; we were in the garden, Mr. Dan'l Wills and myself, planting beans at the time; in the garden nearly opposite the barn, this side of the Point house. I heard a noise, down toward the wharf, as if a collision between vessels, and loud noise, apparently from men; I then went toward the garden fence, on the road, and stopped on the rail; looked over the fence. I saw a steamboat proceeding down the river; a man on the upper wharf on what I supposed the canal boat, at the time, not having a good view of the object. I went from the fence; went out of the garden; went down towards the wharf where the canal boat was. I saw a man throw a line towards a boy that was on the wharf; the boy not succeeding in catching the line; I went down into the pleasure garden on the lower wharf; when there, the boat, the canal boat, was too far off the wharf to throw a line to me. The man on board the canal boat ran aft, picked up a small anchor, put it overboard, over the bow, which brought the boat up, perhaps 20 or 30 yds. below the wharf. At that time the steamboat was over in a direction of Timber creek, more than half across the river; I then went up to the garden and saw no more of it. When I heard the noise that called my attention, Mr. Wills was on my right, between me and the fence; Mr. Wills got to the fence first, perhaps a couple of seconds first; we went to the fence, because we could not see from where we were standing. It is a pointed top-board fence, so high that I can't see over it without getting upon the rail. When we got to the fence I was nearer the hotel than Mr. Wills was; he was one side of the post, I was on the other side, about 3 feet apart; Wills put his foot on the rail and looked over the fence; the lower rail; this rail is about one foot from the ground, 15 or 16 inches; I never measured the rail on which

Wills and I stood. I saw the steamboat from there and the man that I suppose was on the canal boat; I could see about half of his height. I could not see directly to the river; the bank prevented. The extent upon which we can see the river depends upon the state of the tide. The barn and stable and shed were between where Mr. Wills and I stood and the river, and to see the river we had to look southeast. We could not see any part of the canal boat from our station on the fence. I expect, from where I stood, I walked over 100 yards before I could see the canal boat. Mr. Wills did not follow me; he remained in the garden until I returned; at least I found him there when I returned. Mr. Wills is a shorter man than I am. When I first saw the canal boat the man was throwing the rope; I afterwards found out that he was the captain; the boy that he threw the line to was on the upper wharf. There is an upper wharf, and then a slip, and then another wharf, a little wharf, and the steamboat slip, and then the pleasure garden wharf. Mr. Wills and myself were planting beans; he was planting and I was covering them. Here the plan, marked A, [being] shown to the witness, he says: I recognise this plan as the plan of the place; the little wharf, between the boat slip and the steamboat slip, comes out a little too far, but I would not be qualified to it; I stood about in the position of the figure of the man when I stood on the fence, and when I got down, opposite the kitchen, I went into the road, and then went through a gate on to the pleasure-garden wharf; the canal boat was then below the pleasure-garden wharf. I was on the road opposite the tavern when I first saw the canal boat, and when I first saw the canal boat she was drifting down opposite the boat slip, and the boy to whom the rope was thrown was on what I have called the upper wharf. The first that I saw of Mr. McMurtrie was on the day of the survey; some one got a subpœna to meet at Harper's; took me down to Mr. Brooke's; Mr. Harper is a tavern keeper, in Market street. Mr. Brooke was not in when we called, and I agreed to come up on the Saturday following; and stated to Mr. Brooke what I have stated here, or about the same; I did not go again; Mr. Brooke said it was not worth while. I am acquainted with that shore down there; between the two wharves, between the Powder and the Tavern wharf; just opposite the fence, below the barn, the shore is gravelly, and the rest is formed by deposite; from the reeds to low-water mark it is bluff; the shore is much the same character as the Pennsylvania shore, above and below. I pointed out the spot to Mr. McMurtrie and Snyder where I stood, and I think the spot marked on the plan is about the right spot.

Cross examined.

Question. When you saw me at my office, did you not request me not to compel you to come up and give your testimony, as it would be very inconvenient to you, and you really knew nothing about the matter?

Answer. I don't recollect my requesting you not to bring me up;

you called me up, and I stated to you what I knew, and said that I could not see where my testimony would be of any benefit, as I had not seen any collision between the party; I cannot say how old a man Mr. Wills is; I don't think he is more than 30 years of age, judging from his appearance; my age is over 60 years; I am in my 61st year; I wear specks when I read or write; I can see an object at a distance nearly about as well as ever. When I first saw the canal boat, there was a man and a boy on board of her. The flats are pretty level down as far as the reeds and spatter-docks go; this is all down as far as the blue line on the plan is; below that the mud is steep.

Re-examined.

High water very often runs over the bank; from the reeds to low water mark is 20 or 30 feet; some places more than others.

HUGH HARBESON.

Taken, sworn, and subscribed, this 29th day of June, 1847, before
J. BURCHARD, *U. S. commissioner.*

Jeremiah Bennett, a witness produced on the part of the respondents, being first duly sworn according to law, did depose and say as follows: I have commanded the city ice boat this winter; I have just left her now; my occupation previously was a Delaware pilot; at one time I commanded the towboat "Delaware;" I commanded her something like two years; sir, I have commanded a steamer "Ocean" from here to Albany, New York, through the canal, and we went outside; first we went outside and then through the canal; she was engaged in towing; when I went through the canal I towed canal boats and barges; barges carry 200 tons, some of them, and canal boats, some of them from 80 to 100 tons; a competent crew for a canal boat, what I call a canal boat, from 80 to 100 tons, is two men and a boy, and sometimes three men; a less number is not a competent crew; I should not think it was; when the weather is rough I cannot exactly say how I would land; it depends on circumstances, the state of the weather; the boats that I towed down from Bordentown generally towed alongside, and we rounded to against the tide; when we came down with the ebb tide we rounded to against the tide.

Question. How is it when the weather is rough?

Answer. Well, I never saw the weather so rough but what I could round to abreast of the city; down by the Point house going down with a boat towing astern, and a deck load in the canal boat, the wind blowing up and the tide running down, and I wishing to land, if the weather was so rough that I could not round to with safety, I would leave her as I went down; I mean when I said above that I never saw the weather so rough that I could not round to opposite the city, I meant when I came down the river; I have seen the weather so rough that I could not round to opposite the city, but it was a heavy gale.

Question. Does or does not a deck load increase the danger of rounding to?

Answer. Well, sir, with a common canal boat and a deck load of barrels, if she was to go into the trough of the sea, I should think she would be apt to go overboard in rounding to; roll her deck load overboard in rounding to; there are different ways of fixing the tow rope to a canal boat; I have seen boats where they have a ring forward in the forward part of the boat; a ring bolt; some boats I have towed have had bits to make fast to; some of the up-river boats; boats I towed generally had a ring bolt and a large hawser hook to hook into the ring bolt; the ring bolt is placed a short distance from the bow; sometimes a foot, sometimes not so far as that from the bow, but right in the bow.

Question. Captain, if you were going down the river with a single boat in tow, would you tow her astern or alongside?

Answer. That would depend altogether on the weather; if it was blowing heavy and a heavy sea, I should most undoubtedly tow her astern; she would go safer; a line made fast 10 or 12 feet from the bow would cause her to upset if she sheered; she would steer much better if placed in her bow than 10 or 12 feet back; three or four feet back from the bow would make very little difference in respect to her sheering; I consider the best place to put the tow line is to make it fast as far forward as you can get.

Cross examined by C. W. Brooke, esq., for libellants.

When I spoke of the crew I meant while the boat was towing, while I had the boat in tow; see, those class of boats I had very little to do with; the hands with the canal boat had nothing at all to do when I had them in tow, for I generally had them alongside; well, sir, with us here in to Delaware I always, when I came down with the ebb tide, I always rounded to; it is not safe to stop the boat going down with tide at the wharf.

Question. Has not the tide greater influence on the canal boat than the wind; which has the greatest influence, the wind or the tide?

Answer. Well, sir, if the canal boat be heavily ladened the tide has a greater influence; and if light, the wind has more influence on her than the tide has.

Re-examined by Mr. Hubbell.

When the vessel is towing behind the man has to steer her, that's all; if I was captain of a boat, the steamboat that was towing her, I would sing out "head a-port," or "head a-starboard" and "let go your line."

Question. Then what would the crew of the canal boat have to do when such orders were given?

Answer. The captain of the canal boat would have to put his helm as directed, and the crew would have to unfasten the line.

Re-cross examined by Mr. Brooke.

Question. Would you not slack up to enable the crew of the canal boat to cast off the line?

Answer. Oh, yes, certainly, by all means. I am acquainted with the river in the immediate vicinity of the Point-house.

Question. If you were running down with an ebb tide, with a single boat in tow that you intended to cast off above the Point-house wharf, how would you do it?

Answer. Well, sir, I would go as close to the Powder pier above the Point-house as I could, tell the captain of the canal boat, "head a-port the helm," slack up the line aboard the steamboat, and tell him to cast off as fast as he could. Well, I would calculate to put her in between the two piers; it makes a good harbor, that's all; I would, most undoubtedly, sir; I would slack my speed, it is very requisite. Before we got to the Powder pier it would be requisite to shoot the steam off to make her go slow.

Question. Suppose the line on board the canal boat was jammed, so that it could not at the moment be cast off, and you were in danger of striking a canal boat against the Point-house pier, would you not, in time to avoid such an accident, cast the line off from the steamboat?

Answer. Yes, sir, certainly; I should let the line go.

JEREMIAH BENNETT.

Sworn to and subscribed, on this tenth day of March, A. D. 1847, before me. CHAUNCEY BULKLEY,
Alderman.

William Davis, a witness produced on the part of the respondents, being first duly sworn according to law, did depose and say as follows: I have been examined before in this case, some part of it; I was one of the crew of the steamboat Superior when the accident happened to the Judge Royer.

Question. I wish you to state with more particularity as to the time and place when the steamboat shut off her steam before coming to the Point-house, and when she stopped her engine and where she stopped her engine, and what was done with the tow line?

Answer. Well, sir, when we came to the Powder pier the steamboat was shut off to go slow, about half way between the two piers; the engine was stopped, and then I began to slack down the line that the canal boat was fastened to; I kept slacking the line down so as the boy could unhook it, till I had slacked the line all down, till I found that the boy was not able to unhook it; I found he could not unhook it; I let it go altogether from the steamboat. When I had let it all go, I hallooed to the boy not to unhook it, so as to lose the line. About the time I was letting go the line, the captain of the canal boat runs from his helm, runs forward to help the boy unhook the line; before he got quite forward he turned round, and runs back again to take his helm

again; just as he got back to his helm, the canal boat fetched up against the wharf. The length of the tow line we had was about forty yards, I should suppose; when I slacked it up it lay in the water; from the time I began to slacken it up it was lying all the time in the water; when I let go the line, the steamboat's wheel-house was right opposite the upper pier of the Point-house wharf, and her stern a little above it. The canal boat, I suppose, was 20 or 30 yards, say twenty yards, above the upper side of the wharf where I cast the line off; the steam ferry boat—one of the Gloucester ferry boats—was all the vessel I saw, lying there in the slip at the Point-house wharf; I did not take notice if the steam ferry boat extended beyond the wharf, but I believe that is the way the boats lay there, a little out from the wharf, and I believe she did, the end a little beyond the wharf.

Cross examined by C. W. Brooke, esq., for libellants.

I was present here this evening and heard the testimony of Captain Jeremiah Bennett; I am in Captain Skellinger's employment now, and I have been all winter in the ice boat with Captain Bennett. I left Captain Metz last fall, when the boat laid up. To-day I made an agreement with Captain Skellinger; he runs in the same line with Captain Metz; same employment; the towing line was hooked into a ring on board the Judge Royer; the ring, I think, was something like two feet off from the stern of the boat; I was on the after part of the boat, not quite chock aft, about ten or fifteen feet from the taffrail; the taffrail is chock aft, as far aft as you can get; I was then all the way from town down there; I generally tended aft on board the boat. What I mean by the taffrail is, chock aft as you can get; I mean I was there in that position. I don't know, indeed, what the distance is between the Powder pier and the Point-house pier; two hundred and fifty yards, I should judge, more or less; I should say it was all that, any how. I saw the Judge Royer strike the wharf; I was looking at her when she struck. I should suppose, as near as I could see, she was something like seven or eight feet from the end of the Point-house pier when she struck.

WILLIAM DAVIS.

Sworn to and subscribed on this tenth day of March, A. D. 1847, before me.

CHAUNCEY BULKLEY,
Alderman.

Robert Dougherty, a witness produced on the part of the respondents, being first duly sworn, according to law, did depose and say as follows: I am engaged as master captain of a steam towboat. I am master of a steam towboat. The name of my boat is the New Jersey; she is the iron steamboat. I tow from Schuylkill round here, and from here round there, and sometimes to Bordentown in New Jersey, and to Bristol; I have been towing round there eight years now; I tow canal boats; they are our principal boats; occasionally we tow other

boats; there *is* three different kinds of boats; there *is* tide-water boats; they are built up 3 feet, pretty strong, and then above that higher, with a deck. Those go through the tide-water canal, and some of the others go there. There is one sort with a canvass; has a ridge pole right along the middle, with a canvass spread over it. The other sort is built open; I can't tell exactly to the foot, I suppose about ten feet each way, with combings and hatchings laid on; if not well built, these are poor things any way; I mean by ten feet each way solid deck, they have ten feet at each end, with no hatches in them, and cut holes; there is running boards along about two feet each side, that is between the combings and the side of the boat. I am acquainted with the Judge Royer; I have been in the habit of towing her for 5 or 6 years, may be longer, off and on; she is called a hatch boat; sometimes she has her hatches on, sometimes off. The last time I towed her she had no hatches on; when she has her hatches on, sometimes she was tight, sometimes she was not; sometimes she leaked, and sometimes, I believe, she did not; she was a towboat once, and she was rebuilt up, and she was always a poor thing afterwards. After they rebuilt her she carried a very heavy load. I always had rather tow any other boat than her; she was always loaded so deep that I have had three at the helm, and couldn't steer her at her helm; her stern was square, that made it so bad a steering. I have known Vanderslice about the same time I have known the boat, may be longer.

Question. Is he a smart and active man, or a heavy man?

Answer. He is a very heavy man, I should say.

Question by Mr. Hubbell. What are his habits in respect to temperance or drinking?

Answer. Well I—it is a question I do not like to answer much.

(Question withdrawn.)

Question. How many men are a competent crew for such a canal boat as the Judge Royer?

Answer. Two good men and a boy, on the Schuylkill.

Question. Whether do you consider a canal boat sea-worthy or not with less than that number?

Answer. No; I don't. There ought to be three men at least on board those boats; but that is what they have generally, two men and a boy.

Question. In towing the Judge Royer in rough weather, how would you land her, by rounding to or with the tide?

Answer. I should not round to with her, not if there was a heavy sea. I am acquainted with the river Delaware.

Question. Suppose you were coming down the river Delaware, the tide being ebb, and the wind up the river and a rough sea, and you were to get as low as the Powder wharf, and had been requested by the captain of the Judge Royer to land him at the point, then how would you do it?

Answer. Why I would go along by the wharf, the Powder wharf,

and if he could not get a line to the Powder wharf, I would tell him to go ashore. That is the way I have done.

Question. How would you do that; how would you tell him to go ashore?

Answer. Why, cast his line off, and tell him to steer ashore.

Question. Suppose the line belonged to your boat?

Answer. Well, I would slack it up, and tell him to cast off, that is, I would tell the captain of the canal boat so. Shall I explain to you any thing about going to the wharf? Yes, says Mr. Hubbell, explain anything you please. Witness proceeds: I undertook to round to last fall in a blow; I filled two boats, and came very near losing the whole two; I came along there afterwards with a boat, and I let her go that way; I thought that was the best, and she did land safely; I mean I let her go in the way I have said I let the Judge Royer go; I could not get a line to the wharf. If I were to land at the Powder wharf and could not get a line to the wharf, I should tell them to steer ashore.

Question. What is the proper way, when the tow line belongs to the towboat, of attaching it to the canal boat?

Answer. Well, it depends upon where that boat is placed; if she is placed along side, we have it made fast to the clite and ring, bow ring; if she is behind, make it fast to her bow ring; you can't manage them without; some has a hook, and some ties them in knots. This bow ring should be put as well in her bows as we can get them in a well constructed canal boat, as far forward as we can cleverly get it.

Question. What is the effect, good or bad, of placing the fastening of the tow line back any distance from the bow of the canal boat?

Answer. If the ring aint well forward she would take a sheer on, and you can't break a sheer; I have seen three men at the helm, and they could'nt break the sheer; they would go ashore; I have seen them go ashore; they could'nt break the sheer, and that too in smooth water in the river Schuylkill.

Question. If the hook be hooked into the bow ring, and the tow rope be taken back and passed twice round the windlass, and then the end of it taken on board the towboat, would or would it not be the same in respect to sheering as if fastened to the windlass?

Answer. Well, if she got a sheer on they could not break it so soon; pass the line through the ring and hook it to the windlass, and it is the same thing as if hooked to the ring, that is, in respect to the sheering; if you tie a line to the ring and then pass it round the windlass, it don't do you no good in respect to sheering.

Question. In a well constructed boat, ought or ought not the ring to be sufficiently strong to tow by without fastening the tow line at that end to any thing else?

Answer. Well, I have towed ten boats with one ring, and twenty boats with two rings; I always tow with the ring; I won't tow without a ring; I always make it a practice of leaving them that have no rings; I saw the Judge Royer on that day the accident happened to her; I don't remember the day of the month or week; I saw her the day she

1775.

went away from town; it was a very windy day; the river was very rough, so rough that I wouldn't round to with a tow; I passed the captain, Captain Metz; I had two boats in tow; I landed one at Vine street, and one below Vine at Nephews; I landed them; I mostly forget whether it was ebb tide or flood, but it was with the wind and a heavy sea; I was before the wind when I landed them; the canal boat Judge Royer, when I saw her that day, was alongside the Superior steamboat; the starboard side of her; she was rocking pretty bad; I thought I saw Captain Vanderslice holding on to the cabin; he could'nt walk the decks, nor no other man.

Further examination adjourned to Wednesday evening, 17th day of February, A. D. 1847, at 7 o'clock.

Wednesday, p. m., 7 o'clock, 17th February; counsel appeared, when examination further adjourned to Wednesday evening at 7 o'clock, February 24th, 1847, when parties and counsel being present, examination of Robert Dougherty proceeds.

Being cross examined by C. Wallace Brooke, esq., for libellants, witness says as follows:

I have known Captain Metz; I can't say; not over three months; I have heard them say he was captain of the Superior; I saw him on board of the Superior towboat; the Superior was towing; we have cast boats off each other on the river; I first conversed with him about this case some time this winter; I couldn't tell when it was he came across me; I can't tell exactly where; it was down to the railway, down town; I was hauled up there; Captain Skellinger was with Captain Metz when he came down to see me; I have known Captain Skellinger for several years; he used to go captain of an ice boat, an ice breaker, and I went in the same boat as engineer; I ran that winter, the winter with him; I just know Captain Skellinger, no more than in that way; I went in the same boat he did; I have had no other dealings with him; when Captain Metz and Captain Skellinger came down to see me, they did not come about this case; Captain Metz asked me if I would come up and mention how I landed boats, how I towed them; he did not mention to whom; I did not mention at first how I towed boats and landed them, but I told him I would come up if I could, but I did not know that I could come at all; I did not tell him in the first place how I towed boats; Captain Metz did not give me an account of this accident of the Judge Royer; I think Captain Skellinger did mention it one day; this was after Captain Metz and Captain Skellinger came down to see me; Captain Skellinger I think mentioned the same words, if I would come up and tell how I towed boats and landed them, before he and Captain Metz came down together to see me that day; I did not then tell Captain Skellinger how I towed boats and landed them; he said he wanted me to come up and tell; it was about some boat that was sunk at the Point house; he did not mention any names; Vanderslice mentioned to me about the (witness says) you asked me if any one else mentioned to me about the boats; I say, yes; Vanderslice mentioned to me about the boats; Vanderslice mentioned it first, that is before Cap-

tain Skellinger did, and when Captain Skellinger mentioned it, I knew it was the same boat from what Vanderslice had said; I never related before what I have stated upon my examination here, nor any of it; that was all the conversation had when Captain Metz and Captain Skellinger came down to see me; I have not conversed upon this subject since with Captain Metz, Captain Skellinger, or with no body.

Question. You stated in your examination in chief that you have had three men at the helm of the Judge Royer, and they could'nt steer her; when and where was that?

Answer. No; I said that I had three men at the helm of that kind of a boat, and could not steer her. I don't know that I could name the boats. If I could think of it, I could name a great many; I can't name any of the captains who commanded those boats, I have towed so many of them. I was acting as engineer in the Pennsylvania when Captain Skellinger commanded her; I can't tell how long ago; she was bought in York, and sold back there again; it was when she was here; it is more than six years ago when I was in her; it might have been seven years ago; I can't tell exactly; I never keep account of such things. Last fall Capt. Vanderslice came to me, and asked me what I thought about the accident to the Judge Royer, which was the first time I had heard of it. I can't tell the day on which the accident occurred to the Judge Royer; I couldn't tell exactly the season of the year; it was last summer, as near as I can come at it; I landed my boats in safety on that day; they were loaded; I had *not* but two; the burthen of those boats—one of them carried sixty tons; the other carried, I suppose, about sixty tons; sometimes boats carry more, and sometimes less; I can't tell the names of those boats; I think the name of one of the captains was Captain Miller, John Miller, I think, and the boat's name was the "Council;" I saw him last on last fall; the other boat's name, and the other captain's name, I am unable to tell; those boats had each of them three hands on board; well, there were two men, and a clever-sized lad; we call them men.

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ROBERT ⋈ DOUGHERTY.
mark.

Sworn to and subscribed, on this twenty-fourth day of Feb., A. D. 1847, before me. CHAUNCY BULKLEY,
Alderman.

It is agreed that this shall be considered as regularly taken under a rule of court.

CH. W. BROOKE.

Philad'a, *Feb.* 24, 1847.

Deposition taken before J. Burchard, commissioner, at the office of F. W. Hubbell, esq., in the city of Philad'a, on the 5th day [of] Feb., 1847. Present, C. W. Brooke. esq., counsel for libellant; F. W. Hubbell, esq., [counsel for] resp't.

Joseph Sloan, being produced, sworn, and examined on the part of the respondents, deposes and says: I am master of the steam towboat Rockland, and have been for this year past; for the last six months of the season I was on board of the steamboat Portsmouth; I run between Philad'a, Bristol, and Bordentown in towing; I towed canal boats; that was our regular business; I have not been engaged in towing in any other waters off the Delaware; the boat that I run belongs to myself, and Roberts and Walton; the owners are J. G. Fell, J. W. Woolsteen, and myself; I have had as high as 24 boats in tow at one time, that is, of loaded boats; I have had more of light boats.

Question. How many hands do you consider a competent number for the large class of canal boats, say one carrying 90 tons?

Answer. Three I consider a competent crew for such a boat. I do not consider her fit for this navigation without that number.

Question. Have you or not ever declined towing a boat which had not that number of hands?

Answer. I have very often towed boats with a less number of hands. Two men and a boy, or three men, I consider necessary. Very often there is one man and two boys.

Question. Is, or is not, that the customary or usual number?

Answer. It is. In my towing down the river we come down with the tide, and in calm weather, so that we can *we* round to head to the tide, and come to the wharf in that way against the tide; and we sometimes don't come to the wharf exactly, but cast them off, and let them run in, and very often when we have several boats to land,

to the wharf,

and take a line out to the wharf, and get rid of them in that way. We generally manage our boats so when we commence towing them, when they are to land at different wharves, so that we can land one or two of them at each wharf, without coming to the wharf. In rough weather, it is sometimes so rough that we cannot round to. We fear that our boats would get across the swell, and roll their deck loads off, and many of them being open boats, that they would take in water; under such circumstances, in such rough weather, we come to with the tide; we don't round to. We come along with the tide close to the wharf, and let the boats drop in gradually towards the wharf, and back our engine.

Question. Suppose there is a shore without a wharf, how do you avail yourself of that?

Answer. We cast the boat off, and let her steer in.

Question. When the tow line belongs to the towboats, which end is cast off, that in the towboat, or that in the canal boat?

Answer. The end from the canal boat.

Question. Do you or do you not consider it the business of the crew of the canal boat to cast off their end of the tow line?

Answer. Yes, sir; the crew of the canal boat, of course, cast off our line for us.

Question. What is the proper mode of fastening the tow line which

belongs to the towboats to the canal boat; how is it fixed or fastened to the canal boat?

Answer. There are different ways; some have a hook in the end of the line, and some have a loop to put over a timber head, or whatever it may be. There is a thimble in the hook; the end of the line runs through it, and spliced into the standing part of it; when the line has a hook in it, it can be hooked around a timber head, or on the windlass, and hooked on the standing part of the line.

Question. Have or have not many modern canal boats ring bolts fastened into their decks in which to put the hooks of the tow line?

Answer. All canal boats have ring bolts, or, as they call them, bow rings, to hook or tie the tow lines on to; that is the ring they are generally towed by.

Question. When I speak of a crew of three being necessary to a canal boat, I think it equally necessary when towed by our towboats; the proper way of towing a boat by our steamboats, is to hook the hook of the tow line in to the bow ring if it is strong enough; if the boats are well constructed it ought to be strong enough; the boats that I tow we tow by the bow ring altogether; we have no windlass on the boats I tow. Before I commanded a towboat, I was on board of towboats in other situations; I was on board of a city ice boat three or four winters; I can't say precisely whether it was two or three; Captain Levi Lingo commanded the ice boat at the time.

Cross examined by Mr. Brooke.

I am 30 years of age last July; I have followed the water 10 or 11 years; perhaps longer; I first followed the water in the capacity of a hand on board of a sloop; she plied on the Delaware; part of the time to the Delaware breakwater, carrying stone; part of the time through the Delaware and Chesapeake canal; I was on board of this vessel one season, and part of another season, I think; I next went on board the steamboat Wilmington as a hand on deck; she was not a towboat; I was with her one running season; I next went on board the towboat "Pennsylvania" in the capacity of a deck hand; I can't say how long I was in her; I was in her several towing seasons; she runs between Philad'a and Bristol, and Bordentown; the next I run a little steamboat part of a season above Fairmount dam; next, I went aboard the steamboat State Rights; she towed between the Schuylkill and Bordentown; at that time I was on board of her part of one season as a deck hand; I went off her into the "Hornet," on the same line, in the same capacity as a deck hand; I was on her about a month, the balance of the season; the next I went up Jersey on the Morris canal; not on board of anything; I had a contract with another man on the canal, enlarging the canal; the name of the man was Colen H. Barker; I was there nearly a year, and then returned to Philad'a. At first, after coming back, I went on board the steamboat Hudson as an engineer; she was a towboat; I was aboard of her about a month; the

next I had command of the steamboat Pennsylvania; I had been outside of the Delaware bay; I went to New York the first year I followed the water, in the sloop I first spoke of; that was the only time I ever was out of the bay; I never run in the same boat with Capt. Metz; I never belonged to the same line with Capt. Metz; I have known Capt. Metz by sight some 3 or 4 years; never had any acquaintance till about a year; I have been talking with him about this case; I have seen him twice about this case; he came to see me aboard of my boat up town; there was no one with him either time; when a canal boat is in tow, sometimes the hands on board have nothing to do; when it is calm nice weather, they have nothing to do; when it is not calm nice weather, it is sometimes more than they can do to take care of their boat to keep her from knocking to pieces against the steamboat; the hands can prevent the boat from knocking by keeping the fenders between them and the steamboat; I am speaking when they are towing alongside; in very rough weather you can't fasten them so properly but what they will jam and knock against the steamboat.

Question. How many men does it require to keep fenders between the boats?

Answer. It requires all the men; the crew of the boat; one man can do it; the witness says to keep the fenders and do the other work about the boat, requires all the hands; a boy of 14 or 15 years of age might keep one fender in; a man could not keep any more; there is some pumping to be done very often; tight vessels aint going to want much pumping; we generally have one man at the helm, that is, whenever we want him to. The helm has a good deal of influence when the boat is attached alongside of the towboat; when the canal boat is towing astern, they have nothing more to do than at any other time; it requires only one to steer the boat; I have towed a light boat from here to Bristol with no other hand on board but a boy; I have, at the request of a captain, taken a boat up under my own charge, without any hand at all aboard; and with my own hands taken her into the basin at Bristol; I have done this more than once; not very often; we have frequently taken empty boats up with only one hand on board, and very often that hand a boy. Some of the canal boats carry fenders; most of them do; I think small fenders; the towboats carry fenders, but not to use for the canal boats, only to fend ourselves off on coming to the wharf; I have towed loaded canal boats with less hands than three; very seldom; I don't know that I've towed one with one hand.

Question. In rough weather, which is the most secure mode of fastening the towing line on to the canal boat—by hooking it into the bow ring or by fastening it around the windlass?

Answer. If the bow ring is strong enough, that is the best plan. The bow rings in our boats will stand a great deal more than the timberhead; the windlass I don't know about; I have never towed from windlasses. When it is proper for the hands on the canal boat to cast off the

towing line, we slack the line to enable them to do so. The class of boats I have been in the habit of towing are from 50 to 60 ton boats; they generally carry coal and mdze., wood and lumber. There have accidents happened to boats I have had in tow, and pretty serious ones too, by boats taking in water and sinking; that was caused by the high winds; they were open boats and loaded with coal, and one with wood. I had one boat to sink in bringing her to the wharf, by running her against a log which could not be seen; it was a new wharf, and the log was under the water; that is the only accident I ever had in running a boat against the wharf; the boat would have come to the wharf fair enough. I don't know that I ever ran a boat against anything else to produce a damage of any consequence.

Re-examined.

Question. When you are towing a boat in rough weather, a loaded boat, and it becomes necessary to land her, is there or not occupation for three hands?

Answer. Yes, sir, I think there is. When I spoke in my cross examination of towing boats up to Bristol at the request of the captain, it was in calm weather; I would not have done it in rough weather.

JOSEPH SLOAN.

Taken, sworn, and subscribed, this 5th day of February, 1847, before
J. BURCHARD, *U. S. Commissioner.*

James Devoe, a witness produced on the part of the respondents, being first duly affirmed according to law, did depose and say, as follows: I have commanded a steam towboat; I have commanded one on the river between Bristol and Philada. thirteen (13) years back; that is the commencement of my towing, and I continued that down to 1845, changing off at different times into the passenger business. Understand me, that I was not confined to one boat at that time, but I was in different boats. The first boat I commanded was called the "Convoy," belonging to the Lehigh Coal company; the next one was the "Lennaus," the next was the steamboat "Pennsylvania," the next was the steamer "Hudson;" that makes four in the towing business. I towed, the first of my towing, arks; the next was canal boats—canal boats, I mean, of different sizes, and vessels of different sizes. The size of canal boats I have been in the habit of towing are from 45 tons to 65 tons; that means from the register of the Mauch Chunk, of the amount of coal they carry; they vary a little, and are sometimes as low as 40 tons. I consider three hands a competent number to fit a canal boat for navigation—a boat of that size—I mean a boat of 60 tons, or from between 45 and 60 tons; that is the number I have generally observed them to have. I consider it just as necessary to have these men while the boat is in tow as when the boat is in the canal; the tow line is generally attached to a ring in the bow of the canal boat; if the canal boat

be properly rigged she will have such a ring, and they are not considered finished without such a ring; sometimes there is a hook used for to hook into the ring; at other times the line is passed through the ring, and two half-hitches taken; they are two knots which are made, that are easy to cast loose in case of necessity.

Question. In a well-constructed boat, is there or not any necessity of putting the tow rope round the windlass after it has been passed through the ring?

Answer. Not if the ring is considered substantial; lines have been passed through the ring when the ring has been doubted not strong enough. It is the duty of the men on board of the canal boat to cast off the line when it belongs to the towboat, when it becomes necessary to cast off the canal boat to land her, or for any other purpose. In rough weather, when the wind is ahead, that is, driving into the bow of the boat, when there is a heavy sea running, we generally cast her off in the straight course, going along, coming up, or going down the river, whichever way it may be, and by running near the shore; in calm weather, when perfectly calm, still, coming down with the tide or against tide, we have rounded to both with the tide and against the tide; rounding to in rough weather and a head wind, it is more liable to throw the boats into what is called the trough of the sea in heavy swells, and to swell over the sides of the boat; the midships of the boat being lower than the bows generally, and the boats also roll about more. If she be a deck boat with a load of barrels on her deck, it would have a tendency to throw them all off, unless they were well secured, which is never the case hardly; only blockings generally, or very small railings round, from 6 to 8 inches high, I think, and some not so much as that, and some none at all. I would rather have a canal boat alongside of the steamboat in towing; you have her there more at hand, and can manage her more carefully.

Question. Captain, have you ever refused to tow boats on account of their not having sufficient hands? (Objected to by Mr. Brooke.)

Answer. I have frequently refused to take them where they have not had a sufficient number of hands, say three.

Question. Is or is not the high sea occasioned by the wind and the tide being in opposition, other things being equal?

Answer. Yes. Oh, yes!

Question. In case you had a single boat to tow, to take down to Delaware City from Philadelphia, if the weather was rough and the wind ahead, where would you put her, alongside or behind?

Answer. I think I should put her behind, that is, astern of the steamboat, if I had no other boats to pick up on the road.

Being cross examined by C. Wallace Brooke, esq., witness says:

I am in the refectory business now, sir, in Sixth street, at the Odd Fellows' Hall, under the Odd Fellows' Hall; I have been in that business since the 13th day of September last; I have known Captain Metz four years; I was not much acquainted with Mr. Metz until about

two years ago; since that time I have been very intimate with him; I have seen him a great many times; I have been in his company a great many times and saw him *and saw him* in his business; he has called once or twice to see me where I now am, at my refectory; he was there last evening, I think it was, or yesterday afternoon; I think he was there two weeks ago, or seven or eight days ago; I didn't pay any attention to the time; I think Captain Skellinger was with him there; no one was with him the other time; those were the only times he has been at my place, I believe; he may have been in there at other times, but not in my presence; I did not notice what he had to eat or drink; I have known Captain Skellinger a number of years; he has been in the room here this evening; I think he left the room before you (Mr. Brooke meaning) began to examine me; I have had some conversation with Captain Metz about the sinking of a boat down at ; I think there was nothing said about Gloucester point; the captain wanted to know if I had ever sunk any boats, and how I had managed them; I have sunk one boat, at least I did not do it myself; I considered the weather was the cause of it, the weather done it; that was, I think, in 1834, up at the Five Mile point, above Philadelphia; I was then employed by the Lehigh Coal Company; the boat belonged to a man by the name of William Lanes, and the cargo belonged to the Lehigh Coal Company; the boat was raised; nobody paid the owner of the boat for the damage; it was between eight and nine years afterwards that I left the employ of the Lehigh Coal Company; Captain Metz did not say to me that he wanted me to be a witness before any court; he asked me to come down here to Mr. Hubbell's, before Mr. Hubbell; I did come here before this evening; when Captain Metz and Captain Skellinger were with me at my refectory, something was said about the sinking of the boat; I could not say what their object in coming to my refectory was, except to inquire of me how I towed boats; I can't say that was their object, not positively; I could not; that was not the principal object of our conversation; we *was* talking about different things; Captain Metz told me that the weather was very bad at the sinking of the boat, and that the boy could not unhook the rope when he was ordered to; that he was too weak, or too small, or something of the like; I can't recollect of seeing the captain there before; I did not meet Captain Skellinger this evening; I met Captain Metz this evening near the Odd Fellows' Hall, not in the Hall; when the canal boat is in tow, one of the hands is necessary to stay by the helm and steer or assist in steering, if required; the other hand is kept as a bowsman to stand by to cast off or make fast as orders are given to him; the third hand is kept on board for different purposes, for pumping, if the boat should spring aleak, and different purposes, for either cooking or assisting captain or bowsman when called on; the boats I have refused to tow without a sufficient number of hands have been good boats, new boats, that is, three hands; I don't recollect ever towing any boat with one hand; I can say positively I never did with one hand; when it is proper to cast off the towing line, it is generally

slacked up by the steamboat; when it is properly slacked, could not a boy of 14 of 15 years of age unhook it?

Answer. That depends on circumstances; these tow lines and hooks are generally very heavy, and require a man with all his strength to unhook one, particularly when the boat is sheering. Sometimes the captain of the canal boat at the helm will let the boat sheer off faster than ought to be, and the consequence is, commences carrying the hook and line along with it; and it would require a person to be very quick and active to jerk it off if she is not sheering; it would be more easier if the rope be properly slacked. Under those circumstances, I should think a boy of that age might unhook it. I have seen it done by a boy, and I have seen it when it could not be done by a boy, in consequence of its sheering; and particularly when the boat is in a state of sinking, when it becomes more unmanageable. Passing the towing line through the ring does not make it more secure, not unless the ring is close to the windlass—very near, say 6 or 8 inches off.

Question. Suppose you should [be] running down with the tide, with a boat towing astern, and approaching a wharf against which a canal boat was about to strike, and you saw that the hands on the canal boat were unable to cast loose the line, would you not immediately, in order to prevent the canal boat from striking the wharf, cast off the line from the steamboat?

Answer. I would, if it was not jammed by any means, when it would be an impossibility, without an axe, or something of that kind; it could not be done by a penknife; not in quick time enough. I have known it to be the case that a line on board the canal boat to get jammed, when it would be equally impossible; I have known it in both cases.

Question. In coming to a wharf with a canal boat, a deck boat, in rough weather, can you not do it with more certainty and safety by rounding to against the tide than by running with the tide, where you have sufficient sea-room to take a wide scope?

Answer. I think I could do it quite as well where she has a deck, where she is all decked over to keep off the sea. If she had a deck load I should prefer heading her down the tide, letting her off, which means head down the tide. If she had no deck load, I would want to see her perfectly tight before I would round to with her in a heavy blow.

Question. If she was perfectly tight, would you round to, or would you let her go head with the tide?

Answer. That depends on circumstances. If the river was perfectly clear of vessels I might round to; if not, I should land it head down with the tide. We do that by slacking up the engine and stopping all headway. We cannot, in all cases, manage to come up to the wharf when running with the tide.

Re-examined by F. W. Hubbell, esq.

Question. If you were going down the river in a steamboat with a

boat in tow, the tide being ebb, and the wind blowing up the river, and the sea being rough, and the boat having a deck load, which would be the most judicious course, to attempt to land her in the mud above the Point-house wharf, or to attempt to bring her to the wharf?

Answer. I should run her in the mud, and not attempt to bring her to the wharf; there is generally too much sea at the wharf.

JAMES DEVOE.

Affirmed to and subscribed, this sixth day of February, A. D. 1847, before me.

CHAUNCEY BULKLEY,
Alderman.

The above deposition is hereby considered and agreed to be taken as if they were so taken regularly under a rule of court.

CH. W. BROOKE.

Henry Hoover, a witness for the respondent, being sworn, deposes and says:

The counsel for the respondent first reads to the witness the examination of J. P. Davis, a witness for the libellant.

My employment is that of a shipwright. I am employed in the U. S. navy yard; I am the foreman of the yard.

Question. You have heard the condition of the Judge Royer in the deposition just read; would it be possible for a vessel in such a condition to have floated, and how long?

Answer. I should say that a boat in that condition could not have floated more than an hour, if I understood the reading, of the bilge seam being ¾ of an inch open. The bilge seam is on the knuckle of the boat, turning from the floor up towards the deck. It is under water always when the boat's afloat. It is in the bend of the boat at the floor head, just above the floor head; I mean the floor timber-head. The garboard seam is next to the keel.

Question. Would it or not be possible for a canal boat to float with the garboard seam open ¾ of an inch?

Answer. It would be, sir, an impossibility for a boat to float with her garboard seam open ¾ of an inch.

Question. If the whole side of a boat was bursted open, and the inside and outside plank and bolts had parted from the knee an inch and a half, what would be the effect of such a state of things on the capacity of the boat to float?

Answer. The boat might float with all that started.

Question. If a boat were so much strained all over so that the oakum was sticking out of her, and the bilge seam opened, could she float any length of time, and how long, with any amount of load in her?

Answer. I should think she could not float any great length of time?

Question. You have heard it stated, in the deposition of the witness which has been read to you, that he saw this boat lying in the river at

the wharf in Philadelphia, and that he saw no water in her hold; now, if there was no water in her hold at that time, is it or not possible that she could have been in the condition in which he described her to have been in?

Answer. Stop one minute; there is one question (objected to) I was going to ask, whether the boat had been repaired when he looked in her hold.

Question. Answer the question on the supposition that she had not been repaired.

Answer. I should say, sir, she could not have been in the condition that he represented her to be.

Cross examined by C. Wallace Brooke, esq.

Question. Answer the last question upon the supposition that they had stopped the leaks, and the boat was prepared to go off somewhere to be repaired.

Answer. The deposition upon *them* grounds might be true; I have never seen the Judge Royer; what I have stated in reply to the gentleman on the other side are only my opinions and inferences.

Question. Could not the vessel be damaged in the manner described by Mr. Davis in his testimony, and the opening stopped up temporarily, so that the vessel could be made to float?

Answer. Yes, sir, she could.

Re-examined by Mr. McMurtrie and Mr. Hubbell.

She would have to be sheated or stripped in the seams, where they are so wide open, to enable her to float.

Question. Are your opinions founded upon your knowledge and experience as a shipwright?

Answer. Yes, sir.

HENRY HOOVER.

Sworn and subscribed, Nov. 17, 1847, before
JOHN BINNS,
Comm'r, U. S. D. C.

And thereupon afterwards, to wit, on the day of , A. D. 1850, the libel, answer, and replication being read, and the argument of the several proctors being heard and duly considered, the court make and pronounce their opinion in the words following, to wit:

The steamer Superior was customarily employed by the Philadelphia and Havre de Grace Steam Towboat Company in towing vessels for hire between Philadelphia and the Delaware outlet of the Chesapeake and Delaware Canal.

On the 15th May, 1846, Capt. Metz, her commander, was applied to by the libellant to tow his canal boat, Judge Royer, then laden with a valuable cargo, down the river; Capt. Metz objected, alleging that the state of the weather was such as to make the trip a hazardous one; but being pressed by the libellant and several other masters of canal

boats which were in waiting, he finally consented to take them, saying, at the same time, that the "weather was unfit to go down the river that day, and that if they must and would go down, they must do so on their own responsibility, or at their own risk." Three of the canal boats were thereupon attached to the side of the steamer; but one of them meeting with an accident immediately after, two only proceeded; of these, one was very soon cast off at the request of the captain; thus leaving only the boat of her libellant, who persisted in his purpose to go on.

They had not however made much progress before it was deemed prudent to detach the Judge Royer from the side of the steamer, and to tow her astern. In doing so, the canal boat got into the trough of the sea, and rolled so heavily as to lose some casks of merchandise that made part of her deck load; and it was then agreed that she should be run in upon the mud flats, on the Pennsylvania side, above the pier at the Greenwich-point house, where it was thought she might take the shore safely.

It was ebb tide, and the wind was blowing hard from the Jersey shore. The manœuvre of casting off the canal boat was executed badly on one side or the other, and she struck against the pier with so much violence as to damage her greatly. She succeeded, however, in anchoring a short distance below, when the steamer, returning either for the purpose of rendering assistance or of receiving the tow line which had been left fast to the canal boat, came into collision with her so forcibly as to break several of her own paddle-wheels, and further to injure the canal boat in a greater or less degree.

After this the steamer again took her in tow, conducting her in a nearly sinking state, towards the Jersey shore; and having almost reached it, she again cast her off and directed her course for Philadelphia. But the depth of the water and the adverse wind, and probably also the condition of the canal boat, prevented the libellant from beeching his boat by means of poles, and she, in consequence, drifted out into the stream. The steamer returned upon observing this, but again coming into collision with her, broke in her stern and completed her wreck. The boat sank, her hatches came off, part of her cargo drifted out, and nearly, if not quite, all the remainder was damaged.

I believe that there is no dispute upon the facts which I have recapitulated. The discrepancies in the testimony relate to the seaworthiness of the canal boat at [the] time of leaving Philadelphia, and the degree of skill and care displayed by the steamer in the subsequent incident.

The libellant claims indemnity for the damage done to his boat and her cargo by these repeated collisions. He considers the steamer as in the occupation of a common carrier, and liable for all losses which have not been occasioned by the act of God or of public enemies; and he denies that the limitation, by the captain, of his responsibility, by the notice to the libellant, if admissible at all, can be so extended as to exempt him from liability under the circumstances presented by the evi-

dence. For he says, in the second place, that the loss was directly occasioned by a want of that ordinary skill and care on the part of the steamer, which are engaged for by every carrier of goods for hire.

The claimants, the Towboat company, deny that they are common carriers, and assert that being ordinary bailees, bound as such, by force of the ordinary contract, only to the exercise of ordinary care and skill, their special disclaimer of responsibility, impliedly acceded to by the libellant at the time of contract, must be construed as exempting them from liability for everything, except just that measure of skill and care which would be exacted by the circumstances of a voyage which involved no special or extraordinary hazards. They affirm that they did exercise this measure of skill and care; that the collision of the canal boat against the pier was occasioned by her being insufficiently manned; and that, as to the two subsequent collisions, they must be referred to the state of the weather, and were, moreover, in their consequences of no importance, since the first collision had reduced the canal boat to a state of wreck.

The first question thus presented is, whether steam tugs whose regular and constant business it is to tow boats for hire, are to be regarded as common carriers, when the owner or master of the boat towed remains on board of it. Chancellor Kent in his commentaries (I. P. 599,) includes them in this class of bailees, but cites no authority for the position. On the other hand, Judge Story excludes them from it, (Bailments, § 496,) referring in the margin to the case of Alexander vs. Green, 3 Hill, 9.)

I confess that, after reading that case over carefully, the reasoning of the court does not appear to me conclusive, and that I am much more impressed by the argument of the counsel for the unsuccessful party. It has been suggested that such steam tugs should perhaps hold a place between common carriers and ordinary bailees for the carriage of goods; not liable, in general, for loss by fire or robbery. Since the owner or his immediate agent has, to a certain extent, the continued supervision of his property; but to be otherwise held to the highest degree of accountability, since the vessel towed is, for the time, under their control, quite as much so as the baggage of a passenger in a stage coach.

But if they are not to form a distinct new category, I should incline strongly to the opinion that they must be treated as common carriers. Their occupation is essentially a public one; they hold themselves out to the world as ready to serve all who will employ them, and they have whatever of advantage any common carrier can devise from such a public announcement—they have the custody and direction of the vessel to be transported; it is generally fastened to the steamer in such a manner as not to be safely detached while the two are in motion, unless by the act of those on board the steamer; and if detached while on the way, the boat is without any power of providing for her safety. The hands on board the boat, moreover, receive their orders from the

steamer's captain; and, in fact, the two move on together under the sole impulse and guidance of the steamer.

The vast interests which are daily confided to such steam tugs, the hazards to which our internal commerce may be subjected by a want of the highest degree of skill and care on the part of those who command them, and the difficulty of drawing the line in a court of justice, between the consequence of mismanagement and those of mere stress of weather; or, where these come together as they often do, of assigning to each its appropriate share of influence; these considerations urge us very strongly to hold the steam tug to the rigid accountability of a common carrier; but I do not think it necessary to decide the question, though the law of Pennsylvania, under which this contract was made, seems to be settled by the supreme court of the State, however reluctantly, that a common carrier may restrict his common law liability by special contract, yet the extent to which such a limitation may go is itself limited very strictly. It has never been contended that this limitation can be so enlarged as to relieve him from the exercise of all ordinary skill, diligence, and care. The utmost for which he has ever been allowed to stipulate, is that his liability should be subject to the same rules as that of an ordinary bailee for hire.

What, then, was the liability of the steamer, considered as an ordinary bailee, who, at the time of contracting, had given to the master of the canal boat the special notice which is in proof? Independent of that notice, the engagement was for the exercise of adequate skill, and of reasonable care and prudence in towing the boat to her destination; skill and prudence, both adapted to circumstances, hazardous or otherwise; did the notice vary this engagement?

In the case of Alexander vs. Green, already referred to, it was decided that an engagement to tow a boat "at the risk of the master and owner thereof," relieved the steam tug from all liabilities arising from a want of ordinary care and skill; and it has been contended here with great force, that the notice by Captain Metz, that if the canal boat determined to go, it must be on her own responsibility, or at her own risk, should have an equally broad effect.

I acknowledge that I cannot distinguish the two forms of expression, so as to give them a difference of import. But I have not been able to satisfy myself that the notice in either case should have the effect contended for.

I cannot conceive of a contract for transportation which shall be so limited as to exonerate the carrier, when the property entrusted to him is destroyed by his negligence or want of skill. Such a contract would have no meritorious consideration; its terms involve no engagement at all; it means nothing but that the carrier will not fraudulently or wilfully destroy the property; and to this every man, whether carrier or not, is bound by the law of the land, in reference to the property of every other man, without any contract whatever.

In my judgment, a saving of this sort would be repugnant to the

spirit and purpose, as well as the body, of the contract; and, were such an interpretation claimed for the notice in this case, I could not regard it otherwise than as void; such, I may remark, seems to be the opinion also of the accomplished editor of the American leading cases, (,) in his comments on this decision.

But the claimants here do not assert this doctrine without qualification. They admit themselves bound for the reasonable skill and diligence which would be adequate to any ordinary risk; and only ask exemption from employing that higher skill and diligence, which the particular emergency in this case called for.

Still I cannot accede to the legal policy which would sustain even such a limitation; it could never have a practical interpretation.

What is its import; does it mean that, if, in consequence of the storm, the captain of the steamer shall become too much absorbed in anxiety for his own safety to think of anything else, this shall be enough to discharge him and his steamer from liability; does it mean that he may cast off his tow to the mercy of the elements, so soon as he becomes sensible that his own risk is increased by keeping her attached? His own safety, and the safety of his tow, would no doubt have been more complete if neither had left the wharf at Philadelphia; now, what increase of peril, beyond that of encountering the elements at all, shall be deemed the casus fœderis, which is to excuse his negligence or want of skill in meeting it; and how are we to subdivide and distribute the indicia of nautical skill and prudence, so as to mete out to the vessel under tow its just portion of them in the varying contingences of such a voyage, asserting for it all that would be needed in favorable weather, but denying its right to any more; distinguishing circumstances into ordinary and peculiar, that differ only by inappreciable degrees, as the height of a wave, or the force with which the wind blows; and referring the injury which is complained of to one or the other class of causes; thus ascertaining whether the peril was within the contract or its limitation; how shall we decide in reference to a particular case of peril or difficulty, that it called for extraordinary energies, but the energies that combatted it were merely ordinary.

It involves no hardship to the master or proprietor of a steamer, whose daily occupation is the navigation of the river, to assume that he is acquainted with its hazards, and fitted to decide whether the state of the wind and tide will allow him to carry down his train of canal boats in safety. He is the pilot of the voyage; he is the best judge even of the sufficiency of the canal boat to resist the weather, and of the adequacy of her crew to do what may be required for her protection. It is in evidence that, when the water is smooth and the towboats are attached in consequence to the steamer's guards, the hands of the towboats have nothing to do; that boats have occasionally been towed in safety without any person on board. At other times, when the boat is towed astern, a man is required to steer her, and a boy or another man to give occasional assistance. Sometimes a still larger crew may be required by circumstances. Again; the form, dimensions, and

lading of the towboat, have their influence. A decked boat, with a light cargo, is perfectly safe in weather which would swamp an open boat heavily laden. Now, when a boat offers herself for towage, it is the proper office of the master of the steam tug to determine upon all these points, and to refuse to take her, if she is either too imperfect in her structure and arrangements, too heavily burthened, or too lightly manned to meet the apparent hazards of the particular voyage. He would have this right, whether regarded as a common carrier or as an ordinary bailee; and I see no objection to requiring that he shall exercise it.

I am inclined, therefore, to decide that the limitation of the claimants' liability, which has been contended for, does not exist; and that the steam tug, notwithstanding the notice, was bound for the exercise of all that skill and care which the circumstances of the case called for.

Did Captain Metz exercise this degree of skill and care?

I have examined all the evidence in the case very fully and cautiously. There is in it just about the usual conflict of recollections that belongs to controversies of this sort. Men who are parties in a scuffle, or on board different ships that come into collision, never agree as to where the blame lies; even lookers on very seldom unite in detailing occurrences of an exciting character; especially is this true as to times, distances, and even as to the order in which incidents have followed each other. It is often, in consequence, the most puzzling duty of a judge to determine, from the conflicting evidence of honest and intelligent witnesses, what the truth is, which they all profess to detail. In such a case, he is fortunate if he can get hold of some fact independent of memory—some landmark, that cannot have been subjected to change. I think we have something of this sort in a part of the evidence here.

It is found in the position and course of the canal boat at the moment of striking the wharf, as determined by the part on which she received the first injury. She struck on her starboard bow; her head, therefore, was that moment inclined outwards to the river, and off from the flats. She struck, moreover, with great violence, so as not only to break in her bow, but to indent or displace the wharf log against which she struck. I do not see how these two circumstances can be explained, unless by the supposition that, at the moment of striking, she was obeying a powerful impulse derived from the steamer.

Now, it is agreed on all hands that the steamer and the canal boat were on the Jersey or weather side of the river when it was determined that the boat should be cast off; that the steamer immediately directed her course towards the Pennsylvania shore, and, reaching this side of the channel, passing immediately below the Powder wharf, 562 feet above the place of the first accident, still steering towards the flats; then inclining down stream in the cove between the Powder wharf and the wharf at the ferry, where the water was smooth, she skirted along the flats, the canal boat, in the mean time, steering towards the

Pennsylvania shore. Arriving near the lower or ferry wharf, the steamer again headed outwards towards the deep water; and it was about this time, or immediately after, that the canal boat struck the wharf.

So far the witnesses concur. The witnesses for the steamer say that, soon after passing the Powder wharf, she slackened her speed, and at last checked it altogether, for the purpose of enabling the canal boat to throw off the tow rope; and that this would have been effected if the crew of the canal boat had been effective; but that the libellant being at his helm, and no other person on board but a boy, who was not strong enough to unhook the rope, the libellant left his helm to assist him, and thus occasioned the accident, though the steamer had, in the mean time, thrown loose her tow rope.

Now, it is plain, that this of itself would not have produced the collision. Had the steamer stopped in time, and the tow rope been fully slackened, the canal boat would not have had sufficient headway to drive her against the wharf so forcibly, and her motion directed inwards by her helmsman, and aided by the wind, would have continued towards the shore, rather than outward against wind and steerage.

The story on the other side denies that the captain of the canal boat ever left his helm, and refers the injury to the continued speed of the steamboat, which kept the tow-line taut, until the boat was nearly in contact with the wharf, even while the steamer was heading out herself; and thus made it impossible for the boat to obey her helm. This view of the facts, which is borne out, moreover, by the testimony of those who witnessed the accident from the shore, seems to me to be fully corroborated, as I have already remarked, by the force and direction of the boat's impact against the wharf.

There are numerous facts disclosed in the depositions which point to the same conclusion; it is not necessary for me to refer to them in detail. I have been particularly struck by the reported difference in the bearing of the two captains—the one, excited, irritated, losing his presence of mind, hurrying about his vessel, multiplying orders, twice bringing his steamboat into forcible collision with the sinking canal boat which he sought to rescue; the other, calm, resolute, efficient, endeavoring to secure his boat to the wharf by lines, after the first accident; anchoring her, when that failed; holding on to his chance of deliverance, even after the steamboat had become entangled with her afterwards; refusing to quit his post when warned that she was bearing down on him the second time; and even after she had again struck him, and he was driven down in the water to his knees by the last collision, holding on to his vessel till he had made fast to her bow the line by which she was dragged ashore at last, after she had sunk. On a question which involves the seamanship and prudence of these two men in the circumstances which led to the first accident, I am justified in referring to their subsequent conduct in the disasters which followed.

I am constrained to say, that the captain of the steam tug appears to have failed in the performance of what I suppose to have been his duty.

It was not enough that he shut off his steam when approaching the wharf; for this would only check, without arresting, the motion of his vessel; he was bound, in the exercise of ordinary care, even if the weather had been calm, to see to it that the rope was adequately slacked, to allow the canal boat to get ashore; and if he found that, from any cause, the rope was not at once detached, he was bound to wait till it could be done; or if the wind and his position made it dangerous for him so to stop on his course, he should have retained his hold of her, carrying her out with him into the channel again, and repeating his manœuvre at some lower point on the river. I fully acquit him of all wilful misconduct, but I cannot escape the conclusion that had he been more self possessed, than he appears to have been; in a word, had he exercised the ordinary skill and prudence which his contract of bailment implied, the first accident never would have occurred.

As to the two subsequent collisions, the argument for the claimants admits that they are without legal justification or excuse.

The preliminary questions which were raised upon the pleadings do not seem to me to involve a difficulty. The bailer of goods has such a property in them as will support a suit for damage done to them; and though the party damaged by a collison cannot in any case receive a double satisfaction, I do not see any reason for refusing him permission to include in the initiative of one proceeding his claim of recourse against the ship which has injured him, and against its owners to the extent of their interest in it.

The decree will be *in rem* for the libellant for the amount of his actual loss, by reason of the three collisions that have been referred to, with interest in the nature of damages from the date of the occurrences, and with full costs; and it is referred to the commissioner to ascertain the amount of this decree.

J. K. KANE.

Whereupon, afterwards, to wit, on the 28th day of January, A. D. 1850, on motion of Wm. Henry Rawle, esq., for libellants, referred to Mr. Heazlitt, commissioner to assess damages under decree.

VANDERSLICE et al.
vs.
THE SUPERIOR.

And the said commissioner did thereupon afterwards, to wit, on the sixteenth day of April, A. D. 1850, make and file his report in the words following, to wit:

To the honorable John K. Kane, judge of the district court of the United States, in and for the eastern district of Pennsylvania:

The undersigned, to whom it was referred under decree to assess the damages to the libellants in the above case, respectfully reports, that he has been attending at divers times between the 21st day of February and the 6th of April, 1850, by William Henry Rawle, esq., for the libellants, and by R. C. McMurtrie, esq., for the respondents.

The libellants claim damages for

1. Injury to the boat.
2. Fixtures of the boat.
3. Expenses attending upon loss.
4. Injury to cargo.
5. Costs and expenses of suit.
6. Costs before commissioner.
7. Salvage, and
8. Storage.

These claims are considered in their order, and the testimony adduced will be referred to by paying of Mr. Rawle's copy.

It may be proper to note, that the proctor for the respondents objected at the first meeting to any new testimony, the libellants having closed; but the reference being to assess damages, I have thought that any legal testimony bearing upon this point admissible, and have used such portions of this testimony as was, in my opinion, necessary to arrive at a just conclusion.

In making my calculations I have been guided by the assessments made by persons in the trade, who saw the goods after the accident; and where this could not be obtained, I have relied upon the testimony of Jos. R. Bolton, who saw all the goods, (or such as were returned,) and made estimates of the damage. In some cases he assisted the vendors; in others he alone assessed the damage. Mr. B. testifies to a general knowledge of the various articles damaged, and in the absence of any other evidence I have adopted his conclusions made at the time, as the best evidence on the subject.

The various claims are now considered, and the allowance, or disallowance, noted with the argument, or references of pages of depositions.

1. Loss of boat.

At page 34, estimate was made by Adam T. Davis, who wanted the job, and, after describing the damage, he estimates that it would cost $179 25 to put her in running order; and by putting $200 more on her, could have been made as tight and as staunch as she was before. Bell and another estimated the damage at from $250 to $280, and says: "The first thing, she wants a new set of hatches; they were lost; they would cost from $50 to $60 to make her as good as she was strong; she would need bilge streaks, streaks of plank or timber; they would cost from $40 to $50, such streaks as should be put in her. Her rudder was not damaged, her stern was damaged, and her waist; her timbers were carried away; one of her bottom plank[s] broken, and she needed a thorough caulking. I patched her up, and this cost $40 or $50."

The boat, previous to the accident, as appears by the testimony of William Davis, was one of the greatest depth on the canal, and was completely renewed about two years before the accident. There can be no doubt that the libellant is entitled to have his boat placed in the same condition as it was before the accident; not patched up, but a boat suitable for all the purposes of trade to which it was previously

applied. There is no evidence that this patching repaired thoroughly all the damage; and, indeed, the purpose to which she was afterwards applied, to wit, carrying lumber, would negative such a proposition. I have no difficulty, therefore, in awarding to the libellant for the damages done to his boat the sum of two hundred and fifty dollars, the lowest estimate fixed by the testimony.

2. For fixtures of the boat.

These consisted, before the collision, according to the testimony of Jos. R. Bolton, "of lines, horse gears, canvas, poles, and the usual cabin furniture, beds and bedding. After the collision, these things, or such as were there, were wet; the poles had floated away; the beds and bedding were wet; don't recollect anything about the horse gears; the towing line was there, having been made fast to the boat; did not see the canvas, &c."

The value of this canvas was estimated at $30; as to the horse gears, poles, &c., the balance of the articles, the damage is assessed at $15. This is the only evidence before me as to the value of the fixtures of the boat, and I adopted the conclusions of the witness, and assess the damages at $45.

3. Expenses attendant upon loss, raising the boat, &c.

Joseph R. Bolton (p. 65) testifies to the payment of certain expenses; these are for sundry services, raising boat, catching goods, towing, labor, &c., amounting in the aggregate to $90 25; this does not include the fee of the watchman Bell, who made as is alleged a contract at $2 per night ($4) nor the amount of $30 paid J. R. Bolton; making $124 25 actually disbursed.

These charges seem perfectly legal, and are allowed.

Pending the reference Mr. Bolton has made a claim for $100 for extraordinary services at the Point house, and afterwards in saving these goods. In his cross examination he says, "friendship for Capt. Vanderslice induced me to go down to the boat, he being in trouble down below, and if possible to render him such assistance as was in my power. These services were rendered to Captain Vanderslice; he has not told me that he would pay me out of the proceeds of this suit; I now make a claim for $100 for such services, against the company."

I cannot conceive on what principle this claim can be sustained; if the decree of the court was for consequential damages, and the amount paid, then this might be a proper charge. The motive of the claimant in going to the scene of disaster was, we are bound to believe, for such is the fact as sworn to, "friendship for Captain V." the matter rests for some four years, when Mr. Bolton relinquishes his claim, if any he had, upon Captain Vanderslice, and presents it as a legal claim against these respondents.

It is true, doubtless, that Mr. Bolton's care and judgment contributed greatly to the preservation of these goods; but the commissioner is compelled to reject the claim, as one not incident to the collision, but for care principally exercised over the goods after their arrival at this port.

The next claim of Captain Vanderslice is for sundry horse feed, and one barrel of mackerel, $10 28.

The sale of these goods is proved by Th. H. Brown, who, although unable to fix the precise date of sale, identifies the entry in the book as his handwriting. They are made between two dates, viz., the 7th and 11th May, 1846.

The horse feed is proved to be a total loss, and the barrel of fish had floated off; these items are allowed as damages, say $10 28.

8. The next claim is for storage which is defined by the witness Brown "to be expenses in taking care of the boat."

In this case it is charges upon goods which were received by Bolton to be shipped by that vessel.

This the commissioner submits is in no way incident to the collision, and the claim is disallowed.

7. The remaining claim is for "salvage," and this the witness Bolton defines to be for expenses in raising the vessel, &c.; for this service the libellant has been allowed under second item, and his claim for this service is rejected.

The aggregate of damages for which Captain Vanderslice receives compensation is as follows:

For damages to boat - - -	$250 00
" fixtures - - - - -	45 00
" expenses - - - - -	124 25
" horse feed and fish - - -	10 28
	429 53
Add interest from 13th May, 1846, to 19th April, 1850, - - - - -	77 27
	$506 80

Vendors, Jordon & Bro.

4. Injury to goods of Z. Bennett.

Groceries - - - - -	$906 98
Less admissions by proctor for libellant (p. 81)	71 12
Nett bill - - -	$835 86

Francis Jordan, page 55, testifies that he saw part of these goods afterwards at Bolton's wharf and store; they were found in a terrible bad condition; the coffee, none of it was there.

At page 103, Bolton testifies that the bags all bursted, and the coffee lay about in the bottom of the boat.

Lewis M. Bell, at page 25, brought the boat to Bolton's wharf on Monday; they took all out except the coffee; that I took back in the Judge Royer to Gloucester point, because it was spoiled and was'nt fit to land on the wharves. Captain Miller took that out to try to make manure of it.

Under this evidence the commissioner reports as total loss:

		Damage.
10 bags Rio coffee - - -	$131 14	
10 " Laguayra - - - -	90 43	
		$221 57
The molasses, Trinidad, was molasses and water, damaged between 40 and 50 p. - - - - -		34 68
One barrel N. O. molasses was saved, average damage 20 p.		17 40
One tierce fresh rice, $27 30. Mr. Jordon testifies that he thought it entirely worthless, soaked through and somewhat dissolved; though at page 7, Colcord's testimony, we find a sale of rice consigned to Bennett, $3 73; am't bill - - - - - -	$27 30	
Less credit by sale - - -	3 73	
		23 77
8 boxes dipped candles, $39 38. Same witness, at p. 57, testifies that these candles were all mashed together, not fit for use, and I now form the judgment that they are worth the tallow, which was worth about 7 cts. at that time; amount of bill - - - -	39 38	
Less tallow - - - -	31 50	
		7 88
8 boxes mould candles - - - -	47 78	
Less tallow - - - -	34 30	
		13 48
1 box single loaf sugar, at p. 57; don't recollect seeing the box of sugar, loaf, at all - - - -		47 74
Or the Java coffee - - - - -		16 20
Or the box sperm candles - - - -		8 91
Or box of ground pepper - - - -		7 84
The (hhd.) sugar was worth about 2¾ cents per pound; it was almost all dissolved.		
3 hhds. sugar cost - - - -	223 87	
Damaged, value by apprs. - - -	98 50	
		125 37
6 boxes yellow soap - - -	24 60	
Injured about 20 per cent. - - - -		4 92

The proof of delivery of all these goods is by F. Jordan, at p. 55.

Note.—It is conceded by the proctor for the libellant that 2½ chests y. h. tea, $71 12, were not on board the Judge Royer at the time of the collision.

Dilworth and Branson.

Hardware - - - - -	$398 39
5 per cent. off - - -	20 02
	$378 37

James M. Vance, at p. 5, "is employed at D. and B." made estimate of damage," and assessed the damage at 50 per cent. - - - - - - $189 18

Conrad and Roberts.

Hardware - - - - -	$200 45	
5 per cent. off - - - -	10 00	
	$190 45	

George A. Roberts, at p. 44, saw goods after the damage; the average damage was 50 per cent. - - - 95 23

J. P. and H. P. Conover.

Bill of hats, cash - - - -	67 07	
Wm. P. Conover, at p. 70, saw these hats after the collision after they had come from the boat; they were damaged; they were in a bad condition, saturated with mud and water, you could scarcely tell what the hats were. Leghorn goods is an article that spoils very quick; at the lowest calculation they were damaged 50 per cent.	33 53½	
And the expense of repairing - - -	11 00	
		44 53½

The proof of delivery is by Jos. R. Bolton, at p. 118.

Dulty and Johns.

Boots - - - - -	28 10	
E. Coolidge, boots - - - -	33 90	
The amount paid for cleaning the boots referred to in the latter bill, (see R,) is - -	3 85	
No evidence is submitted as to extent of damage on bill of Dulty and Johns, altho' Bolton, at p. 118, thinks $5 was paid for cleansing both bills. The only positive evidence I have before me is the bill of E. Coolidge, and I assess the damages at - - - -		3 85

James M. Wilcox.

Bill of paper - - - - -	$7 84	
At p. 7, Hor. F. Colcord's deposition, the ac't sales of Richards and Bispham show sale of paper consigned to Bennett, amount of bill -	7 84	
Cr. ac't sales - - - - -	3 93	
		3 91

E. T. Deacon.

Hats, nett - - - - -	60 22	

E. T. Deacon repaired hats bought of Wilkinson and himself, at p. 48; am't of repairs -	$25 50	
And after repairs the goods were worth 20 per cent. less than their original value—say -	12 04	
		$37 54

Thomas M. Smith.

Hardware - - - - - -	197 77	
4 p. c. off - - - - -	7 88	
	$189 89	
Bolton, at p. 84, assessed the damage at 20 p. c.; he was assisted in his appraisement by Mr. Parrish, a clerk of Mr. Bennett's; damage - -		37 97½

George D. Wetherill.

Bill drugs - - - - -	257 65	
The linseed oil, nett - - - -	86 62	
	171 03	
Less 5 p. c. for cash - - - -	8 55	
Total bill - - - -	$249 10	

At p. 13 Samuel W. Earle says, a number of these articles would be completely lost by water; alum, if left in the water a little while, would dissolve. The whole bill, except the white lead and oil, would be subject to a heavy damage; the water would injure the sale of the lead by discoloring the kegs; it might start the hoops.

Being cross examined says: He can't say how long it would take the alum to dissolve; the pieces weigh from 15 pounds to half an ounce; it would take some length of time to injure; pretty clean water wouldn't hurt it for some days; Schenck's syrup would only injure by destroying the labels, which would hurt the sale of it.

Preceding this examination he says: "No one from our house saw these goods after they were shipped."

Bolton swears that a portion of the goods were sent to Richards and Bispham for sale, and notice given.

By reference to account [of] sales of Richards & B., p. 7, we have the market value of the goods thus damaged:

We find a sale of indigo - - -	2 63
And of cassia - - - - -	84
	$3 47

The cassia, as per bill, cost - - $2 20
" indigo - - - - 16 50
$18 70
Damage - - - - $15 23

Loomis & Peck.

Books and paper - - - - $84 74
Loomis, at p. 12, refused to give $5 for the lot, but offered $3; and at p. 64 Peck says that, in his judgment, $3 was the value of the lot. Damage - - - 81 74

E. Newland & Co.

Looking-glasses - - - - $38 30
At p. 18, Newland assesses value after damage at $9 81; he repaired these goods, sold to libellant another bill, and gave credit for value of damaged articles. Damage 28 49

Manley Rowe.

Cedar ware - - - - - $71 22
The evidence of delivery of this ware is the manifest, supported by the oath of Bolton, who, at p. 118, testifies to appraising damage on some cedar ware of Ziba Bennett, at 25 p. c., and in this assessment he was aided by Mr. Parrish, who came for the purpose of attending to this business; this was the only cedar ware sold or shipped to Bennett. Damage - - - - - 17 80½

B. M. Jones.

Feathers - - - - - $57 90
No proof of sale, entry, or delivery.

J. Eddy.

Paintings - - - - - $31 00
Same as above.

Recapitulation.

Goods of Ziba Bennett.

Bill of		Damages.
Jord. and Bro. -	Coffee, total loss - -	$221 57
	Molasses, Trinidad - -	34 68
	" New Orleans -	17 40
	Rice - - - -	23 77
	Candles, dipped - -	7 88
	" mould - -	13 48
	Sugar, single loaf - -	46 74
	Java coffee - - -	16 20
	Sperm candles - -	8 91

	Ground pepper - -		$7 84
	Sugar, (hhds.) - -		125 37
	6 boxes yellow soap - -		4 92
Dilworth & Branson	Hardware - - -		189 18
Conrad & Roberts -	" - - -		95 23
J. P. & H. P. Conover	Hats - - -		44 53½
Dulty & Johns -	Boots - -	28 10	
E. Coolidge - -	" - -	33 90	
			3 85
J. W. Wilcox - -	Paper - - -		3 91
E. T. Deacon -	Hats - - -		37 54½
T. M. Smith - -	Hardware - -		37 93¾
G. D. Wetherill -	Drugs - - -		15 23
Loomis & Peck -	Paper - - -		81 74
E. Newland & Co.	Looking-glasses - -		28 49
Manley Rowe - -	Cedar ware - - -		17 80½
			$1,084 21
Interest from 13th May, 1846, to 19th April, 1850			198 55
			$1,282 76

Jordan and Brother.

Goods to C. B. Bowman.

Groceries - - - - - -	246 24	
Of which nett - - - - -	41 25	
		$204 99
Less 3 per cent.		
Included in this bill are charges for molasses, sugar, Rio coffee, tea.		
Jordan at p. 55 says of the syrup molasses - -		48 25
Less 3 per cent. - -		1 44
		47 81
It was injured not less than 25 per cent. - -		11 95
The double loaf sugar was entirely destroyed, nothing left but strings and paper.		
Cost - - - - - -	3 62	
Less 3 per cent. -	0 10	
		3 52
Rio coffee, total loss - - -	6 46	
Less 3 per cent. -	0 19	
		6 27
Don't recollect the barrel sperm oil.		
The tea was total loss - - -	94 26	
Less 3 per cent. -	2 82	
		91 44

But at p. 7, Colcord's deposition, we have account sales by Richards and Bispham of this tea - - - -	$8 96		
Making damage - - - -		$82 48	
Don't recollect the barrel of rosin.			
The keg of saltpetre cost - - -	2 97		
Less 3 per cent. -	0 08		
	2 89		
And was injured 50 per cent. - - -		1 44	
There are many items included in this bill of Jordan and Brother which cannot be accounted for, such as mackerel, oil, rosin, &c. Bolton testifies, that he, with Jordan, appraised the goods at the time on the wharf, and assessed the damages totol at - - - - - -		139 38	
The damages, adding those articles which are said total loss, would be greater, but I am disposed to take the estimate made at the time as the proper estimate, and accordingly assess damages at - -			$139 38
M. Buehler.			
Hardware - - - - - -		208 94	
Mr. Buehler and Mr. Bolton, at p. 55 assessed damages at 33 per cent. - - - - -			70 32
John S. Fitchett.			
Hardware - - - - - -		76 17	
Bolton at p. 110 says, "total loss," the goods were shipped, but could'nt be found after the collision			76 17
E. Hicks Jones.			
Varieties - - - - - -		12 53	
E. Hicks Jones, at p. 47, "did not see the articles afterwards; I saw some wooden ware, but I could not tell whether they were from me or not; I saw them at Bolton's warehouse; I saw no baskets at all, nor did I find any of the articles embraced in Bowman's bill."			
Bolton at p. 110 says, these articles were total loss; the shipment is proved by Bolton - - - -			12 53

Note.—The claim for goods bought of Cooper and Henderson is withdrawn by proctor for libellant, no proof being furnished either of original entries or delivery.

Recapitulation.

Jordan and Brother - - - - - -	139 38

M. Buehler - - - - - - -		$70 32
John S. Fitchett - - - - - -		76 17
E. Hicks Jones - - - - - -		12 53
		298 40
Interest from 13th May, 1846, to 19th April, 1850 -		54 58
		$352 98

John Gilbert and Co.

Goods of Gilbert A. Fowler.

Drugs - - - - - -	$84 66	
Less 5 per cent. - -	4 23	
	80 43	

John Gilbert at p. 61–'2, although testifying to a great deal of damage, has not given any estimate by which I can come to a conclusion. I am therefore compelled to adopt the appraisement made at the time by J. R. Bolton, who assesses the loss at - - - - - 25 35

Less amount of sales, see Colcord's deposition, p. 7	4 32	
Damage - - - -		21 03

John Harding, jr.

Groceries - - - - - -	229 07	
Less 3 per cent. - -	6 87	
	$220 20	

At p. 15, John Harding, the vendor, appraises damage at 85 p. c. - - - -	$188 77

"The articles were in a wretched bad condition."

Acct. sales—Richards and B. Colcord's deposition, p. 7, shows sales:

Bbl. rice - - - -	$0 99	
1 bbl. sugar - - -	4 24	
Sundries - - - -	11 93	
	16 16	
		$171 71

M. Buehler & Co.

Hardware - - - - - -	130 00
John Buehler, p. 27, examined the goods after the accident, and assessed the damages at 33⅓ p. c. - - - - - -	43 47

Peter Rovoudt.

Queensware - - - - - -	35 44

P. Rovoudt, at p. 29, estimates the damage at $3 or $4—say - - - - - 3 50

E. Hicks Jones.

Varieties - - - - -	9 30	
E. Hicks Jones, at p. 47, saw several barrel churns, more than two; they were injured by being soaked in the water, all of them; the water darkened the wood, and that would injure the sale about 50 p. c. - -		2 25
I saw a dozen painted pails - - -	2 50	
Damage 50 p. c. - - - -		1 06
I don't recollect seeing any varnished pails; these, with 1 gross clothes pins, appear to be missing - - - - - -	2 68	

Frishmuth & Brother.

Tobacco - - - - - -	31 43	
Less 5 p. c. - - - - - -	1 57	
	29 86	
		$29 86

Frishmuth, at p. 77, examined Fowler's goods at Hardings; they were worthless.

Recapitulation.

John Gilbert - - - - - -	$21 03
John Harding - - - - - -	171 71
M. Buehler & Co. - - - - -	43 47
P. Rovoudt - - - - - -	3 50
E. Hicks Jones - - - - - -	5 99
Frishmuth & Brother - - - - -	29 86
	275 56
Interest from 13 May, 1846, to 19 April, 1850 - -	50 37
	$325 93

Platt, Hollingshead & Co.

Goods of Fisher & Thomas.

Groceries - - - - - $258 20

The delivery of these goods is proved by Peter Sides, at p. 18. The damage, by J. R. Bolton, at p. 108, from a memorandum made at the time. The hogshead of sugar, says Bolton, was sold for $14 86; but, from reference

to Colcord's deposition, p. 7, Richards and B. acct. sales, it appears that it was sold for $15 78. The keg of powder was saved; and the rest of this bill, except molasses, was [a] total loss.

Molasses cost - - - - -	73 06	
Damage 50 p. c. - - - -		36 53
Sugar cost - - - - -	72 28	
Less acct. sales - - - -	15 78	
		56 50
Balance of bill lost - - - -		128 59

Frishmuth & Brother.

Tobacco - - - - -	95 02	
J. R. Bolton, at p. 109, assesses value of goods saved at - - - - -	22 19	
Richards and Bispham sold one barrel tobacco	0 60	
And one of segars - - - -	1 00	
	23 79	
Amount of bill - -	95 02	
		71 23

John Gilbert & Co.

Drugs - - - -	13 47	
Less 5 p. c. - - - -	0 67	
	12 80	
Silas H. Wentz, of the firm of Gilbert & Co., sold the goods and proved delivery, but was unable to find any of them after the collision; and Bolton, at p. 109, makes total loss -		12 80

A. G. Stine.

Crockery - - - - -	40 50	
A. G. Stine, at p. 92, sent his young man to Bolton's store to have them repacked, and Bolton, at p. 109, estimates the damage at 20 per cent. The estimate was made by Mr. Stine and myself, I think; damage - - -		8 10

James M. Bolton.

Fish - - - - - -	$23 00	
Entry proved by J. J. Sperry, J. R. Bolton, at p. 109, says one barrel saved and two lost. The bills are as follows:		
+ 1 barrel No. 2 mackerel - - -	$6 00	
+ 1 " " 1 large - - - -	11 00	
1 " " 2 small - - - -	6 00	
	3)23 00	
	7 66	15 32

The commissioner has made an average of the above bills as one is of a larger amount, and the loss is not particularly set forth.

Recapitulation.

Platt, Hollingshead & Co. - - - -	221 62
Frishmuth and brother - - - -	71 23
John Gilbert & Co - - - - -	12 80
A. G. Stine - - - - - -	8 10
James M. Bolton - - - - - -	15 32
	329 07
Interest 13 May, 1846, to 19 April, 1850 -	60 26
	$389 33

Stotesbury and Ayres.

Goods of Wm. L. Waller.

Saddlery - - - - - -	20 72	
A. G. Stotesbury, at p. 49, estimates the damage, as the goods lay, at 50 per cent.; fully made a sufficient examination to enable him to judge of the damage - - - -		10 36

J. H. and W. B. Hart.

Groceries - - - - - -	68 11	
Wm. B. Hart, at p. 78 says, I saw these goods; the coffee would not, I think, be recognisable any how; the water would swell the coffee to an increased bulk and burst the bags. Loss -		27 37
The sugar and rice were total loss - -		10 85
The candles would be injured more in appearance than in reality.		
(Note.—There is no evidence of damage at p. 20, bill of May 7, 1846; rice and loaf sugar.)		
Total loss - - - - - -		17 81

Shields and Miller.

Shovels &c. - - - - - -	5 75	
James Shields, at p. 83, estimates damages at 15 per cent. - - - - - -		0 95

Potts, Linn and Harris.

Drugs - - - - - - -	34 00	
J. R. Bolton, at p. 110, estimates the damage at		8 99

Recapitulation.

Stotesbury and Ayres - - - - -	10 36

Hart - - - - - -		$62 03
Shields and Miller - - - -		95
Potts, Linn and Harris - - -		8 99
		82 33
Interest from 13 May, 1846, to 19 April, 1850 -		15 02
		$97 35

L. Hartshorne.

Goods to D. W. Gross.

Drugs - - - - - - -	111 85	
Bolton with J. J. Sterrett, p. 105, appraised goods at an average damage on entire bill at 25 per cent.; and Sterrett, who was clerk of Hartshorne, at p. 31, specifies certain losses, but not with sufficient clearness to enable me to judge of actual loss.		
I have therefore adopted the appraisement damage		27 96
Interest from 13 May, 1846, to 19 April, 1850 -		4 95
		$32 91

John S. Fitchett.

Goods to Jacob Fisher.

Hardware - - - - - - -	80 52	
J. R. Bolton, at p. 106, estimates damage at 50 per cent. - - - - -		40 26

C. H. and Geo. Abbott.

Hardware - - - - - -	20 81	
Bolton, at p. 105, estimates damage at 50 per cent. - - - - - -		10 40

Recapitulation.

John S. Fitchett - - - - - -	40 26
C. H. and George Abbott - - - -	10 40
	50 66
Interest from 13th May, 1846, to April 19th, 1850 -	9 16
	59 82

Scull and Thompson.

Goods to George Zinn.

Groceries, - - - - - -	195 00	
Less 5 p. c. - - - - -	5 85	
	189 15	

James Tyson, p. 23, clerk in Scull and Thompson's, says: The tobacco was almost worthless; it had been injured by exposure to water.

The molasses was uninjured; I don't know what had become of the other articles mentioned in the bill.

We have some trace of the remaining goods in Colcord's deposition, p. 9, ac. sales.

There were sold:

1 barrel sugar		$2 84	
1 keg pepper		35	
1 " cassia		96	
1 bbl. rice		13	
1 hhd. sugar		7 63	
		11 91	
Amount bill	$189 15		
Credit sales	11 91		
Molasses, 31 05, 43 56	155 59		
Add 50 p. c., tobacco	9 38		$146 21
Bolton, in his estimate in this case, assesses the damage at	$131 15		

A. F. Cheeseboro'.

Hams	18 75		
Fish	19 04	37 79	
Edward S. Hall made the sale and delivered the goods.			
Bolton estimates damage loss one bbl. fish,		6 00	
Hams,		18 00	24 00

Recapitulation.

Scull and Thompson	146 21
A. F. Cheeseboro'	24 00
	170 21
Interest from 13th May, 1846, to 19th April, 1850	31 14
	201 35

James T. Kirkpatrick & Co.

Goods to William Bird.

Hides,	181 50	
James T. Kirkpatrick, at p. 30, assesses the hides at 7 cts. per lb., loss of 4 cents; 1,646 pounds,		65 84
Interest from 13th May, 1846, to 19th April, 1850,		11 91
		$77 75

J. H. and W. B. Hart.

Goods to Ricketts and Stewart.

Groceries, - - - - - -	23 04	
Sugar, Wm. B. Hart, p. 78, total loss - - -		$23 04
Interest, 13th May, 1846, to 19th April, 1850 - -		4 21
		$27 25

J. H. and W. B. Hart.

Goods to Robert McCoy.

Groceries - - - - - -	98 92	
It is admitted by proctor for the libellant, that of this bill $18 23, only, went on board the "Judge Royer."		
At p. 105, Bolton says: I recollect seeing salt sacks in the boat, which were probably quarter full, but so much injured as not to be worth preserving. Coffee, total loss - -		18 23
Interest, 13th May, 1846, to 19th April, 1850 -		3 70
		$21 93

J. H. and Wm. B. Hart.

Goods to J. E. Sands.

Groceries - - - - -	28 48	
Less 5 p. c. - - - -	1 22	
		26 27
J. R. Bolton, at page 106, says: The barrel of honey was saved; the coffee total loss -	13 51	
Less 5 p. c. - - - - -	67	
		12 84
Interest, 23th May, 1846, to 19th April, 1850 -		2 20
		$15 04

E. Newland.

Goods to George Weaver.

Looking-glasses - - - -	17 98	
There is no evidence of damage to these articles.		

Ellison & Co.

Shoes - - - - - -	7 70	
There is no evidence of damage done to these articles.		

J. H. & W. B. Hart.

Goods to Edward Hughes.

Groceries - - - - - -	45 79	
Less 3 per cent. - - - -	1 37	
	44 62	

J. R. Bolton, at p. 105, makes total loss.
Delivery proved by Bolton - - - - $44 62

Frishmuth & Brother.

Tobacco - - - - - $25 94
Frishmuth says: "The tobacco was injured in part; snuff lost; Bolton, p. 105, loss - 10 66

Lower & Barrow.

Scythes - - - - - 20 00
Wm. M. Lower, at p. 99, saw the goods; they were damaged about 50 per cent., and would not take them at that; I suppose storekeepers would be willing to sell an article of that kind for one-half - - - - - 10 00

S. A. Lewis.

Cotton yarn - - - - - 17 00
There is no actual damage proved to this article.

P. & A. Rovoudt.

Queensware - - - - - 15 81
No claim is made for damage.

Recapitulation.

J. H. & W. B. Hart - - - - -	44 62
Frishmuth & Brother - - - - -	10 66
Lower & Barrow - - - - -	10 00
	65 28
Interest from 13th May, 1846, to 19th April, 1850 -	11 91
	$77 19

Robinson, Collins & Co.
Goods to T. K. Sharpless.

Drugs - - - - - 96 90
Bolton, at p. 104, says: These goods were put up in store with the other goods; opened, and being mixed up together in such a manner they became offensive, and were thrown away.
George P. Russell, at p. 96, is clerk of R., C. & Co.; many of the goods by being wet would be a total loss; the greater portion of them would be a total loss; and so the commissioner reports at - - - 96 90
Interest, 13th May, 1846, to 19th April, 1850 - 17 58
$114 48

Manley Rowe.

Buckets - - - - - - $13 41

There is no evidence of delivery of these goods to the vessel. The manifest would be evidence probably to charge the ship; but not to make a third party responsible for any damage occasioned by a collision, or by unavoidable circumstances; nor does the manifest designate from whom the articles were received, or connect them in any way with this vendor.

The claim must be rejected.

James M. Bolton.

Goods to George Masters.

Fish - - - - - - 41 95

The libellant admits the delivery of the herring; but as to the balance of the bill, there is no evidence of delivery to the vessel except the manifest, and is ruled by the last claim.

Heefly & Mendenhall.

Dry goods - - - - - - 480 24

No proof of delivery, and abandoned by the libellant.

James M. Bolton.

Goods to J. Sharpless.

Fish - - - - - - 38 25

No proof of delivery save the manifest.

John Gilbert & Co.

Goods to A. Miller.

Drugs - - - - - - $74 88

Bolton in his memorandum assesses damages at $13 84

John Gilbert at p. 64 gives general description of this damage, not specifically.

Loomis & Peck.

Paper - - - - - 32 52

No proof of delivery or damage, and abandoned.

Edgar Emerick.

Queensware, same as the last - - 58 00

Wm. L. Mintzer.

Cedar ware - - - - - 24 41

No proof of delivery, and rejected.

Loudon P. Cairl.

Piano - - - - - - 225 00

L. S. Cairl at p. 33, "sold piano, delivered it at Bolton's wharf; the next time I saw the piano it was in Jersey, below Gloucester point; the box had been broken open and it had become wet; I suppose the damage was $50; I would not have had it so damaged for $50; we repaired it, and our bill was $30; I should think the piano was not as good as it was before.

+ The hammers were damaged, some of them; the water got into the action, and some of the leathers had to be taken off; we repaired those that we could repair; but we couldn't make as good and neat a job as we could in the beginning.

In view of this testimony I have no hesitation in awarding to the libellant for his damages - - - - - - - $50 00

Recapitulation.

John Gilbert & Co. - - - -	13 84
Loudon S. Cairl - - - -	50 00
	63 84
Interest from 13 May, 1846, to 19 April, 1850	11 54
	74 38

John Brock & Co.

Candles - - - - -	19 38	
Bought by last claimant, but no proof of damages.		
The only remaining subject for report is costs, which I have taxed as follows:		
In original suit - - - -	16 85	
Depositions, including those under the present reference - - - - -	102 50	
Subpœnas - - - - -	9 11	
Service of do., 54 names - - -	27 00	
		155 40
Commissioner's fee - - -		100 00
		255 46

I now respectfully report, as the basis of a final decree, the following general results, viz:

To A. Vanderslice - - - - -	506 80
Ziba Bennett - - - - - -	1,282 76

To C. B. Bowman	$352 98
G. H. Fowler	325 93
Fincher & Thomas	389 33
Wm. L. Waller	97 35
D. W. Gross	32 91
Jacob Fisher	59 82
George Zinn	201 35
Wm. Bird	77 75
Ricketts & Stewart	27 25
Robert McCoy	21 93
J. E. Sands	15 04
George Weaver	— —
Edward Hughes	77 19
J. K. Sharpless	114 48
George Masters	— —
J. Sharpless	— —
A. Miller	74 38
	3,637 35
Add costs	255 46
Stigman's room	9 00
	$3,921 81

All which is respectfully submitted by

CHAS. F. HEAZLITT, *Com'r.*

April 15, 1850.

And afterwards, to wit, on the twenty-second day of April, A. D. 1850, by leave of the court first had and obtained, the said commissioner makes and files a supplemental report, in the words following, to wit:

To the honorable John K. Kane, judge district court of eastern district of Pennsylvania.

The undersigned, to whom it was referred to assess damages in the above case, respectfully reports: That on the sixteenth day of the present month he filed his report assessing damages, with interest and costs, at $3,921 81; that since the filing of said report he has discovered an error in the interest calculations; that he has inadvertently allowed interest for three years and some days only, when the actual time for which interest is to be computed is three years eleven months and six days; making a difference to the libellants jointly of $164 05. The various amounts of which he sets out in a schedule hereto annexed, which he prays may, with this report, be considered as part of the report now on file in your honorable court.

Respectfully submitted.

CHAS. F. HEAZLITT, *Com'r.*

PHILADELPHIA, *April* 20, 1850.

LA 2.

Schedule.

Vanderslice - - -	instead of	$77 27	should be $101 25
Bennett - - -		198 55	255 82
Bowman - - -		54 58	70 28
Fowler - - -		50 37	64 91
Fincher & Thomas - -		60 26	77 65
W. L. Waller - -		15 02	19 35
D. W. Gross - -		4 95	6 48
Jacob Fisher - -		9 16	11 80
George Zinn - -		31 14	40 12
Wm. Bird - - -		11 91	15 35
Ricketts & Stewart - -		4 21	5 43
Robert McCoy - -		3 70	4 25
J. E. Sands - -		2 20	2 83
George Weaver.			
Edward Hughs - -		11 91	15 35
T. K. Sharpless - -		17 58	22 66
George Masters.			
J. Sharpless.			
A. Miller - - -		11 54	14 87
		564 35	728 40
			564 35
To be added to amt. damages -			$164 05

Exceptions on behalf of the libellants to the report of the commissioner as to the assessment of damages.

The commissioner has erred—

p. 4 1. In rejecting the claim of Joseph R. Bolton for $100 for services.

p. 5 2. In rejecting the amount of $23 76 "storage" on the goods shipped on board the "Judge Royer."

p. 5 3. In rejecting the claim for salvage.

p. 21 4. In estimating the damages to William Bird, the damages having been estimated at 4 cts. per lb. on 62 hides, weighing 1,646 lbs., whereas the evidence was that but 32 of those hides were saved, and the damages should have been assessed on said 32 hides, and damages allowed for a total loss of the remaining hides, viz: 30.

p. 22 5. In allowing no damages to George Weaver.

p. 23 6. In allowing no damages on account of cotton yarn sold to Edward Hughs by S. A. Lewis.

p. 23 7. In excluding as evidence the manifest whereby no damages are allowed to J. K. Sharpless for a bill of Manley Rowe for wooden ware, $13 41.

A bill of fish sold by J. M. Bolton to Geo. Masters, amounting to $41 05, and a bill of J. K. Sharpless for fish sold by J. M.
p. 8 Bolton, amounting to $38 25. In not estimating the damage done to three hogsheads of N. O. sugar sold to Ziba Bennett by Jordon & Brother, by the best evidence, the cost of said sugar (3,852 lbs., at 6¼ c.) being $223 87. Mr. Jordon testifies that after the accident the sugar was worth about two cents per pound, being $77 04. The commissioner has estimated the value of the sugar at $98 50. The sugar was afterwards sold at public sale for $46 92, which should have been taken as the best evidence of its value.

9 In allowing no damage to G. B. Rupert.

WM. HENRY RAWLE,
Proctor for libellants.

April 16, 1850.

Exceptions by the respondents to the report of the commissioner appointed to ascertain the damages, in the above case, due to the libellants.

1. The commissioner erred in receiving evidence relative to the loss of, or injury to, the goods, boat, or other matters referred to in the libel, other than such testimony as had been taken anterior to the decree of the court.

2. In taking any additional depositions of witnesses who had been examined previously to said decree.

3. In taking the depositions of witnesses not examined previously to the said decree.

4 In reporting the amount of damages based upon any of the depositions taken by him of witnesses who had or had not been examined previously to the said decree.

5. In reporting the sum of $59.82 as due to Jacob Fisher, who is in no respect connected with the cause, not being a party named in the libel.

6. In reporting that the respondents shall pay the costs incident to the proof of the said claim.

7. In reporting the sums respectively reported as due unto the parties named in the said report, other than A. Vanderslice, such parties not being parties to the said proceedings, nor having intervened in the manner required by the 34th rule of the S. C. of the U. S. for the practice of the courts of admiralty.

8. In using the testimony of witnesses to prove an estimate of the damages incurred to the goods when the parties had it in their power to prove at what deduction from the cost the damaged articles were sold at. No notice of the proposed estimate having been given to the respondent, the witness mainly relied on not being, by his own showing, an expert, and the goods, after the injury, having been forwarded to the vendees.

9. In making the allowance for the injury to the boat, the commis-

sioner relies on estimates made before the boat was repaired, instead of the proof of what sums were paid for repairs.

10. In making an allowance to Captain Vanderslice of $10.28, price of a barrel of mackerel which floated off; it being in evidence that two bbls. of mackerel were lost before the accident occurred, and in nowise occasioned by any misconduct of the respondents.

11. In making an allowance for goods, which are shown to have been missing, there being no evidence that the injury to the vessel was the cause of such loss, viz:

Hardware sold to C. B. Bowman by John S. Fitchett.

Estimated loss $76 17, with it, say 76 17; drugs sold Fincher and Thomas by John Gilbert and Co., 12 80; hams and fish sold Geo. Zime by A. F. Cheesebro', 24 00; fish sold Fincher and Thomas by Bolton, 15 32; fish sold E. Hughes by Hart 14 35.

12. In the estimate of the damage to the groceries sold by Jordon & Bro. to Z. Bennett, the estimate of the only expert being that the average damage was 20 per cent., whereas a much larger amount has been allowed, viz:
$221 57, $34 68, $17 40, $23 77, $7 88, $13 48, $47 74, $16 20, $8 90, $7 84, $125 37, $4 92.

13. In allowing the sum of $17 40 for damages to a bbl. N. O. molasses sold by Jordon, Bro., to Z. Bennett, the testimony being that it was saved perfectly sound.

14. In allowing the sum of $139 38, being the estimate put by J. R. Bolton on the damages to the goods sold by Jordon and Bro. to C. B. Bowman, after that the commissioner had allowed for all the damage proved on the particulars of the bill, thus reduplicating the damages on the same articles.

15. In allowing the sum of $128 59 for loss of goods sold by Platt, Hollingshead and Co., to Fincher and Thomas; there being no evidence that such loss was the legal consequence of the accident, for which only respondents are liable.

16. In allowing the sum of $146 21 damage and loss of groceries, sold by Scull and Thompson to George Zinn, the evidence being that nothing was known what became of the other articles than those specified; there being no evidence that the loss was the legal result of the accident.

17. In allowing to Z. Bennett the following sums for damages, when the goods were taken by Bennett at a valuation fixed upon by persons selected by the parties, without notice to the respondents, and without any participation therein by them:

Candles sold by Jordan and Bro.,	damage	- -	$13 48
Hardware sold by Dilworth and Branson,	"	- -	189 18
" " " Conrad and Roberts	"	- -	95 23
" " " T. M. Smith,	"	- -	37 93
Paper " " Loomis and Peck,	"	- -	81 74

Looking glasses sold by Newland and Co., damage	-	$28 49
Cedar ware " " Manley Rowe, "	-	17 80
Hats " " J. P. & H. Conover, "	-	44 53

18. In allowing to Z. Bennett the following items for damages on goods taken by him at an appraisement, which estimated the injury at a smaller sum than has been allowed by the commissioner, viz:

		Damage.	Est. dam.
Candles sold by Jordon and Bros.	-	$13 48	$12 37
Hats " Conover	-	44 53	10 00
Paper " Loomis and Peck	-	81 00	74 74
Cedar ware Manley Rowe	-	17 80	10 00

19. In allowing the sum of $12 53 to C. B. Bowman for wooden ware, &c., sold by E. Hicks Jones, whereas the proof is 21 pckgs. of such ware were saved and forwarded.

20. In making the like allowance to Fincher and Thomas of $36 53 for damage to molasses under the circumstances, as in the 19th exception.

21. In allowing the price at which the damaged goods were sold as a loss, instead of deducting the same. In the estimate of the tobacco sold Fincher and Thomas by Frishmuth and Bro. 1 60.

22. In allowing W. L. Waller the price of the groceries bought by him of Hart's, twice over.

23. In allowing 25 per cent. damage on the whole bill of Gross bought of Hartshorne, $111 85, where $44 42 of that bill was for window glass, which from its nature could not be injured by water.

24. In allowing Geo. Zinn the sum of $24 for fish and hams sold by Cheesebro', when it appears they were saved uninjured.

25. In allowing J. K. Sharpless as for a total loss on the bill sold by Robinson and Collins, when the evidence shows that if there was a total loss, it was owing to acts for which the respondents are not responsible; a large quantity of the goods being so packed as not to be capable of injury from water.

26. In allowing $50 to A. Miller on goods sold to Cairl, whereas $30 only proved.

27. In allowing costs for the matters included in the foregoing exceptions.

McMURTRIE,
Proc. for respondents.

Afterwards, to wit, on the seventh day of June, A. D. 1850, the argument upon the exceptions being heard and duly considered, it is ordered by the court, that the 1st, 3, 5, 6, 7, and 9th exceptions on the part of the libellants be disallowed, and that the 2d, 4, and 8th, on the part of the libellant be allowed; that the 1, 2, 3, 4, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, (except as to item $81 74, which should be $74 74,) 18, 19, 20, 23, 25, 26, 27, exceptions on the part of respondents, be overruled; that the 5th, 6, 10, 21, 22, (as to $16 85,) and

24th, (as to $10 21,) be allowed, and it is referred back to the commissioner to report in accordance with the opinion of the court.

Under reference of 7th June inst., upon exceptions, &c., the commissioner respectfully reports: That he has attended to the duties of said reference, and submits the following table, with a general recapitulation:

First exception.		Storage			$23 76	
		Interest			5 43	$29 19
4	"	Hides, Wm. Bird				
		30 hides, total loss				
		Wt. 795 lbs.			31 80	
		Interest			7 32	39 12
8	"	Sugar, Ziba Bennett				
		" add damage			48 58	
		Interest			11 33	59 91
		Increased damage				128 22
		Deduct				
5	"	Jacob Fisher		59 82		
		Interest		11 80	71 62	
10	"	A. Vanderslice		10 28		
		Interest		2 36	12 64	
17	"	Ziba Bennett		7 00		
		Interest		1 46	8 46	
21	"	Fincher and Thomas		3 20		
		Interest		46	3 66	
22	"	W. L. Waller		16 85		
		Interest		3 78	20 63	
24	"	George Zinn		10 21		
		Interest		2 35	12 56	129 57

Respectfully submitted,

CHAS. F. HEAZLITT,
Commis'r.

Philad'a, June 12, 1850.

Recapitulation.

	Gross damage.		
A. Vanderslice	$429 53		
Interest	101 25		
		$530 78	
Less 10 excep't		12 64	
			$518 14
Ziba Bennett	1084 21		
Interest	255 82		
		1340 03	
Add 8th excep't		59 91	

		$1399 94	
Deduct 17th excep't	-	8 46	
			$1391 48
C. B. Bowman - - -	$298 40		
Interest - - -	70 28		
		- -	368 68
G. H. Fowler - - -	275 56		
Interest - - -	64 91		
		- -	340 47
Fincher & Thomas - -	329 07		
Interest - - -	77 65		
		406 72	
Less 21 excep't - -		3 66	
			403 06
W. L. Waller - - -	82 33		
Interest - - -	19 35		
		101 68	
Less 22d excep't - -		20 63	
			81 90
D. W. Gross - - -	27 96		
Interest - - -	6 48		
		- -	34 44
Jacob Fisher, 5 excep't - -	0 0	- -	0 0
George Zinn - - -	170 21		
Interest - - -	40 12		
		210 33	
Less 24th excep't - -		12 56	
			197 77
Wm. Bird - - - -	65 84		
Interest - - -	15 35		
		81 19	
Add 4th excep't - -		39 12	
			120 31
Robt. McCoy - - -	18 23		
Interest - - -	4 25		
		- -	22 48
Ricketts & Stewart - - -	23 04		
Interest - - -	5 43		
		- -	28 47
			$3,506 35
Brought over - -			3,606 35

J. E. Sands	$12 84		
Interest	2 83		
			$15 67
George Weaver	0 0		0 0
Edwar[d] Hughes	65 28		
Interest	15 35		
			80 63
T. K. Sharpless	96 90		
Interest	22 66		
			119 56
George Masters	0 0		0 0
J. Sharpless	0 0		0 0
A. Miller	63 84		
Interest	14 87		
			78 71
Storage. See 1 excep't	23 76		
Interest	5 43		
			29 19
			3830 11
Costs	264 46		
Com'r 2d rep't	10 0		274 46
			$4104 57

PHILAD'A, June 12, 1850.

CHAS. F. HEAZLITT, *Com'r.*

And now, June 14th, 1850, on reading and filing the report of Charles F. Heazlitt, esq., to whom it was referred as commissioner to ascertain the amount of this decree, by which there is reported due to the parties libellants for damages demanded in the libel the sum of three thousand eight hundred and thirty dollars and eleven cents, ($3830 11,) on motion of Wm. Henry Rawle, proctor for the libellants, it is ordered that the report be in all things confirmed, with costs as therein taxed.

Whereupon the respondents pray leave to appeal from the decree aforesaid to the next circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, and the same is allowed, upon security being given.

And thereupon Gideon Scull and William S. Smith are offered as sureties on appeal, and are approved by the court.

UNITED STATES,
Eastern district of Pennsylvania.

I certify the foregoing to be a true and faithful copy of the record and proceedings of the district court of the United States, in and for the eastern district of Pennsylvania, in a certain plea, civil and maritime,

therein lately depending, wherein Anthony Vanderslice and others are the libellants, against the towboat Superior, the Philadelphia and Havre de Grace Steam Towboat Company, respondents.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court, at Philadelphia, this thirteenth day of August, A. D. 1850, and in the seventy-fifth year of the independence of the said United States.

[Seal of district court, U. S.]

CHAS. F. HEAZLITT.

I certify the foregoing attestation to be in due form and by the proper officer.

J. K. KANE.

UNITED STATES,
Eastern district of Pennsylvania.

I certify that the honorable John K. Kane, who has subscribed the foregoing or within certificate, was at the time of so doing, and still is, judge of the district court of the United States, in and for the eastern district of Pennsylvania, duly commissioned and qualified.

Witness my hand and the seal of said court, at Philadelphia, this thirteenth day of August, A. D. 1850, and in the seventy-fifth year of the independence of the said United States.

[Seal of the district ct., U. S.]

CHAS. F. HEAZLITT.

Whereupon all and singular the said record being considered, and the argument of the several proctors being heard thereupon, the said court make and pronounce their final opinion, in the words following, to wit:

Opinion of the court.

I have examined this case with care, but have not leisure to defend the opinion which I have formed, by a discussion and comparison of the very voluminous and contradictory testimony exhibited by the record, or the very numerous cases referred to in the argument; and therefore content myself with stating the results and conclusions to which I have arrived, without attempting to defend them by an argument.

1. It is true that, by the rules of admiralty practice, a proceeding in rem and personam against the owners ought not to be joined. But the decree in the court below being in rem only, and not against the person, the libel may be considered as amended by striking out the charge in personam. This might have been done at any time, on motion, according to the liberal system of amendments practised in the courts of admiralty, and therefore may be considered as done.

2. This is a case of collision. The libel does not state a case of contract, nor allege a breach of it. The case must therefore be tried secundum allegata et probata. The contract is introduced by the answer, apparently for the purpose of justification. I am not prepared to affirm the doctrine that the owners of a towboat are to be treated as common carriers; and I am equally unprepared to go the length of the case of

Alexander vs. Green, (3d Hill,) "that where the agreement to tow is at the risk of the master of the canal boat, the owners of the towboat are not liable for want of ordinary care." Admitting the right of the parties to restrict their liability by contract, it does not follow that, when the master of the canal boat agrees to take the risk of stormy weather, as in this case, that the towboat is released from the exercise of ordinary skill and care.

If, therefore, a steamboat unskilfully, or carelessly jams a canal boat against a wharf, or drags her against it, and afterwards, in attempting to remedy the evil occasioned by her first fault, she unskilfully and recklessly runs her down and sinks her, I see no reason why the steamboat should not be liable in an action for collision, and not be allowed to excuse or justify such acts, by alleging a contract to tow at the risk of the owner or master of the canal boat. The court below were of opinion that the collisions were occasioned "by the want of ordinary skill and prudence" in the master of the steamboat. The testimony in the case is not only very voluminous, but, as usual, very contradictory.

I cannot say that the conclusion to which that court arrived on the facts is wrong; at most, the very able argument of the learned counsel of defendant has succeeded in casting some doubt on the subject. It would be an ill exercise of the power of an appellate court to reverse the decision of the court below merely because its correctness is doubted.

In this case I am not satisfied that the judgment of the district court is wrong, although I do not concur fully in some of the views of the law, as stated in the able opinion on record. I feel it my duty, therefore, under the circumstances, to confirm the judgment with costs.

By the court.

R. C. GRIER.

Whereupon the said respondents, by their said proctors, pray leave to appeal from the said decree to the Supreme Court of the United States, which said appeal is allowed upon security being given.

And thereupon security is duly entered and approved.

UNITED STATES OF AMERICA,
Eastern district of Pennsylvania, sct:

I certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, in a certain plea, civil and maritime, therein lately depending, wherein A. Vanderslice and others were the libellants, against the steamer Superior, the Philadelphia and Havre de Grace Steam Towboat Company, respondents.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of the said circuit court, at Philadelphia, this twenty-first day of April, A. D. 1851, and in the seventy-fifth year of the independence of the said United States.

[SEAL.]

GEORGE PLITT,
Clerk of circuit court.